

WEST BENGAL MINING SETTLEMENTS (HEALTH AND WELFARE) ACT, 1964

25 of 1964

[26th November, 1964]

CONTENTS

CHAPTER 1 :- Preliminary

1. Short title, extent and commencement
2. Repeal of Ben. Act 2 of 1912
3. Definitions
4. Declaration of area as mining settlement
5. Application of the Act

CHAPTER 2 :- The Mines Board of Health

6. Establishment and incorporation of Mines Board of Health
7. Constitution of Board and term of office of members
8. Chairman and Vice-Chairman
9. Resignation of the Chairman, Vice-Chairman and other members of the Board and filling of casual vacancies
10. Delegation of powers and duties of Board to the Chairman
11. Delegation of powers and duties of Chairman to Vice-Chairman

CHAPTER 3 :- Establishment

12. Health Officers
13. Sanitary Inspectors and other officers and servants of the Board
14. Powers and duties of Health Officers and Sanitary Inspectors

CHAPTER 4 :- Duties of owners and occupiers of lands, buildings or structures in mining settlements

15. Buildings and structures constructed within mining settlements to conform to prescribed conditions and power of Board to demolish buildings and structures in certain cases
16. Appeal
17. Facilities to be afforded to Health Officers, Sanitary Inspectors and other officers and servants of the Board
18. Power to undertake measures
19. Power to require owner of land, etc., to execute works and carry on operations

- 20. Objection against requisition
- 21. Power to execute work, etc., in default of owner or occupier and to recover expenses
- 22. Appeal from declarations and orders under sections 19(3) and 20(2)
- 23. Imposition of fee, water rate and conservancy rate
- 24. Acquisition of land

CHAPTER 5 :- The Mining Settlement Fund

- 25. The Mining Settlement Fund
- 26. Application of the Fund

CHAPTER 6 :- Penalties

- 27. Penalties for offences
- 28. Offences by companies

CHAPTER 7 :- Miscellaneous

- 29. Saving
- 30. Act to override other laws, etc
- 31. Health Officers, Sanitary Inspectors and other officers and servants of the Board to be public servants
- 32. Protection to persons acting in good faith
- 33. Protection to persons obeying orders
- 34. Power to make rules
- 35. Power of Board to make by-laws
- 36. Effect of rules and by-laws
- 37. Power of Board to make regulation for certain matters
- 38. Prosecution at the instances of the Board
- 39. Cognizance of offences
- 40. Powers of Mines Board of Health for obtaining evidence
- 41. Service of notices
- 42. Power of Director of Health Services, West Bengal
- 43. Power of State Government to alter or rescind orders
- 44. Board to comply with directions of the State Government
- 45. Power of State Government to supersede a Board
- 46. Consequences of supersession

WEST BENGAL MINING SETTLEMENTS (HEALTH AND WELFARE) ACT, 1964

25 of 1964

[26th November, 1964]

An Act to provide for the better control and sanitation of mining settlements in West Bengal. It is hereby enacted as follows :

CHAPTER 1 Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the West Bengal Mining Settlements (Health and Welfare) Act, 1964.

(2) It extends to the whole of West Bengal.

(3) This section shall come into force at once; the remaining sections shall come into force on such date or dates as the State Government may, by notification, appoint and, for this purpose, different dates may be appointed for different sections of this Act or for different areas to be specified in the notification.

2. Repeal of Ben. Act 2 of 1912 :-

(1) The Bengal Mining Settlements Act, 1912, is hereby repealed: Provided that

(i) any mining settlement declared, Mines Board of Health appointed, limits defined, appointment, rule, by-law or order made, notification or notice issued, expenses charged or assessed, or contract entered into under the said Act, shall, so far as may be, be deemed to have been respectively declared, established, defined, made, issued, charged or assessed, or entered into under this Act;

(ii) any legal proceeding commenced under the said Act may be continued as if the said Act had not been repealed;

(iii) the State Government may, by notification, abolish any such Mines Board of Health or reconstitute it in accordance with the provisions of this Act.

(2) All properties, movable or immovable and all interests of whatever nature or kind therein, held by or on behalf of any Mines Board of Health appointed under the Bengal Mining Settlements Act, 1912, shall continue to be vested in such Board, being a Board deemed under clause (i) of the proviso to sub-section (1) to have been established under this Act, and, where a notification abolishing or reconstituting such Board is issued under clause (iii) of the proviso to sub-section (1), shall stand transferred on and from such date and to such other Mines Board of Health, whether established under section 6 or deemed under clause (i) of the proviso to sub-section (1) to have been established under this Act, as may be specified in the notification.

3. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,

(a) "Board" means a Mines Board of Health established or deemed to have been established under this Act and when used in relation to a mining settlement means the Board for such mining settlement;

(b) "notification" means a notification published in the Official Gazette;

(c) "owner", when used in relation to a mine, means any person who is in occupation of the mine or any part thereof and carries on the business, or is a contractor for the working, of such mine or part and, except for the purposes of section 27, includes the Government:

Provided that where any person is deemed, under the proviso to section 76 of the Mines Act, 1952, to be the owner of a mine for the purposes of that Act, such person shall be deemed to be the owner of the mine also for the purposes of this Act;

(d) "prescribed" means prescribed by rules made by the State Government under this Act;

(e) the expressions "employed" and "mine" have the same meaning as in the Mines Act, 1952.

4. Declaration of area as mining settlement :-

(1) Whenever it appears to the State Government that it is necessary in the public interest to provide for the planned construction of buildings and structures, proper sanitation and water supply and prevention of the outbreak and spread of epidemic diseases, in any area, not being or not forming part of any mine, within which persons employed in a mine or mines reside, the State Government may publish in the Official Gazette a notice of its intention to declare such area to be a mining settlement for the purposes of this Act.

(2) A notice under sub-section (1) shall define the limits of the area intended to be declared to be a mining settlement and shall specify a period within which any objection or suggestion in regard to the intended declaration may be submitted by any person to the State Government for its consideration.

(3) On the expiry of the period for submitting objections or suggestions specified in a notice published under sub-section (1) the State Government may, after considering the objections or suggestions, if any, in regard to the intended declaration submitted to it within such period, by notification,

(a) withdraw the notice, or

(b) declare that the area, the limits whereof have been defined in the notice, or such part thereof as may be specified in the notification, shall, for the purposes of this Act, be a mining settlement.

(4) The State Government may, by like notification issued following mutatis mutandis the procedure laid down in the foregoing sub-section, add to or alter the area included in mining settlement.

5. Application of the Act :-

The provisions of this Act shall not apply to any area included within a municipality constituted under the provisions of the Bengal Municipal Act, 1932.

CHAPTER 2

The Mines Board of Health

6. Establishment and incorporation of Mines Board of Health :-

(1) The State Government may, by notification, establish a Mines Board of Health for a mining settlement.

(2) The Board shall, by the name of the Mines Board of Health of the mining settlement for which it is established, be a body corporate and shall have perpetual succession and a common seal with power to hold and acquire property, both movable and immovable, and, subject to such restrictions as may be prescribed, to transfer any such property held by it and to do all other things necessary for the purposes of this Act, and to sue and be sued in its corporate name.

7. Constitution of Board and term of office of members :-

(1) A Board shall consist of not less than sixteen and not more than seventeen members as follows:

(a) four members to be nominated by the Coal Mines Authority Limited, 10, Camac Street, Calcutta - 700017, of whom one shall

be a Colliery Manager;

(b) one member to be nominated by the Bharat Coking Coal Limited, Sijua, Dhanbad;

(c) one member to be elected by the members of the West Bengal Branch of the Indian Medical Association from amongst medical

(d) the Coal Mines Welfare Commissioner, ex-officio;

(e) not less than nine and not more than ten members to be appointed by the State Government of whom

(i) one shall be a District Magistrate having jurisdiction within the mining settlement;

(ii) two shall be members of the State Legislature residing within, or representing a territorial constituency extending over the whole or any part of, the mining settlement;

(iii) one shall be a member of the Zilla Parishad having jurisdiction within the mining settlement;

(iv) one shall be a woman social worker;

(v) two shall be persons representing mine labourers; and

(vi) not less than two and not more than three shall be such persons as the State Government may think fit.

(2) The time and manner of election of members under sub-section (1) shall be such as may be prescribed.

(3) If any of the electoral bodies mentioned in sub-section (1) fails to elect the requisite number of members within the prescribed period, the State Government shall fill up the seat or seats by appointment of a person or persons eligible for election by such body and any person so appointed shall be deemed to be a member of the Board as if he had been duly elected by such body,

(4) An appointed or elected member of the Board shall hold office for a term of four years from the date of the first meeting of the newly formed Board after a general election of members, at which a quorum is present: Provided that if the State Government thinks fit so to do for special reasons to be specified, it may, by notification in the Official Gazette, extend the said term of four years by such period or periods, not exceeding one year in the aggregate, as it may consider necessary,

(5) The term of four years referred to in sub-section (4), or, if the said term is extended under the proviso to that sub-section then, the term so extended, shall be held to include any period which may elapse between the expiry of the said term or extended term, as the case may be, and the date of the first meeting of the newly formed Board at which a quorum is present.

8. Chairman and Vice-Chairman :-

The State Government shall appoint two of the members of a Board to be the Chairman and the Vice- Chairman respectively of the Board.

9. Resignation of the Chairman, Vice-Chairman and other members of the Board and filling of casual vacancies :-

(1) The Chairman or the Vice-Chairman or any other member of a Board may resign his office by giving notice in writing

(a) in the case of the Chairman of a Board, to the State Government, and

(b) in the case of the Vice-Chairman or any other member of a Board, to the Chairman of the Board who shall forthwith lay the notice before the Board, and such resignation shall take effect from the date on which the resignation is accepted by the State Government or the Board, as the case may be.

(2) Leave of absence may be granted

(a) to the Chairman of the Board, by the State Government, and

(b) to the Vice-Chairman or any other member of the Board, by the Board.

(3) Casual vacancies in the office of the Chairman, the Vice-Chairman or any appointed or elected member of the Board may be filled up by appointment or election, as the case may be, in the same manner in which the persons, in whose seats such casual vacancies occur, were appointed or, elected and any person appointed or elected to fill any such casual vacancy shall hold office for the remainder of the term of office of the person in whose place he is so appointed or elected.

10. Delegation of powers and duties of Board to the Chairman :-

Subject to such conditions as may be prescribed, a Board may, for

the transaction of business under this Act or the rules, by-laws or regulations made thereunder or for the purpose of making any order authorised thereby, delegate to the Chairman of the Board such of the powers or duties of the Board under this Act or the rules, by-laws or regulations made thereunder as the Board may think fit, and may, at any time, withdraw or modify any such delegation.

11. Delegation of powers and duties of Chairman to Vice-Chairman :-

Subject to such conditions as may be prescribed, the Chairman of a Board may by order in writing delegate to the Vice-Chairman or any officer of the Board such of the powers or duties assigned to him by this Act or the rules, by-laws or regulations made thereunder as he may think fit, and may, at any time, in like manner withdraw or modify any such delegation.

CHAPTER 3 **Establishment**

12. Health Officers :-

(1) A Board shall appoint a Health Officer or, if so required by the State Government, more than one Health Officer for the mining settlement.

(2) Such Health Officer or Health Officers shall be appointed in consultation with the State Government from amongst the members of the West Bengal Health Service on such terms and conditions as may be prescribed.

(3) Where more than one Health Officer are appointed for a mining settlement, the area over which each such officer shall have jurisdiction shall be specified in the order of appointment.

13. Sanitary Inspectors and other officers and servants of the Board :-

(1) A Board may, with the approval of the State Government, determine the number of Sanitary Inspectors and other officers and servants necessary for its administration and fix the salaries and allowances to be paid to them.

(2) The Board shall have the power to appoint such Sanitary Inspectors and other officers and servants as are referred to in sub-section (1).

(3) In appointing Sanitary Inspectors and other officers and servants the Board may specify the area or areas over which they shall exercise jurisdiction.

14. Powers and duties of Health Officers and Sanitary Inspectors :-

(1) A Health Officer shall exercise within the area under his jurisdiction the powers conferred on him and perform the duties imposed upon him by or under this Act, and such other powers and duties consistent with the objects of this Act as the State Government or the Board concerned may, by general or special order, specify.

(2) A Sanitary Inspector shall, in respect of any area within the mining settlement for which he has been appointed, be subordinate to the Health Officer having jurisdiction over such area and shall perform such duties and exercise such powers as may be conferred upon him by or under this Act, or as may be delegated to him by the Health Officer with the consent of the Board concerned.

(3) Every Health Officer or Sanitary Inspector or such other officer of a Board as may be specified in this behalf by the State Government may, within the area over which he has jurisdiction,

(a) make such inquiries as he may think fit in order to ascertain whether the provisions of this Act and of the rules, by-laws and orders made thereunder are observed;

(b) enter, with such assistants (if any) as he may think fit, and inspect any place within such area at all reasonable times by day or by night;

(c) make inquiries regarding the sanitary condition of such area; and

(d) do all things necessary for the due discharge of the duties imposed upon him by or under this Act.

CHAPTER 4

Duties of owners and occupiers of lands, buildings or structures in mining settlements

15. Buildings and structures constructed within mining settlements to conform to prescribed conditions and power of Board to demolish buildings and structures in certain cases :-

(1) Buildings and structures constructed in any area after the declaration thereof as a mining settlement under section 4 shall conform to such conditions as to sanitation, water supply, safety of the dwellers therein and public health as may be prescribed.

(2) If a Board is satisfied that any building or structure within the mining settlement endangers the safety of the dwellers therein, it may, after giving the owner an opportunity of showing cause against the action proposed to be taken under this sub-section, order the demolition of such building or structure:

Provided that no such order shall be executed until after the expiry of the period of appeal or until any appeal filed against it has been disposed of.

(3) Where any building or structure, which was constructed before the declaration of the area in which it is situate as a mining settlement under section 4, is so demolished, the Board shall pay to the owner of such building or structure compensation, to be determined by such authority as the State Government may, by notification, specify in this behalf, for the actual loss sustained by him on account of such demolition.

16. Appeal :-

Any person aggrieved by an order under sub-section (2) or by the decision of the authority referred to in sub-section (3) of section 15 may, within thirty days from the date of the order or decision of such authority, as the case may be, prefer an appeal to the District Judge.

17. Facilities to be afforded to Health Officers, Sanitary Inspectors and other officers and servants of the Board :-

Every person owning or occupying any land, building or structure within a mining settlement shall furnish the Health Officer or Sanitary Inspector or such other officer or servant of the Board as may be specified in this behalf by the State Government, on requisition, with all reasonable facilities for entering upon such land, building or structure and for any inspection, examination or inquiry under this Act or the rules or by-laws made thereunder.

18. Power to undertake measures :-

Subject to such restrictions as may be prescribed, a Board may, on the recommendation of the Health Officer or otherwise, undertake in the mining settlement such measures as it considers necessary to provide for

- (i) the supply of filtered or other water;
- (ii) sanitation, drainage, conservancy, maintenance of public health and prevention or abatement of nuisances;
- (iii) the housing of residents in the mining settlement, whether permanent or temporary;
- (iv) preventing the outbreak and spread of, and combating, epidemic and other diseases;
- (v) the proper treatment of the sick by the establishment and maintenance of hospitals and dispensaries and a medical staff;
- (vi) the regular inspection of food-stuffs exposed for sale in the mining settlement and report to food inspectors appointed under the Prevention of Food Adulteration Act, 1954;
- (vii) the registration of births, deaths and diseases in the mining settlement;
- (viii) the carrying out generally of the purposes of the this Act.

19. Power to require owner of land, etc., to execute works and carry on operations :-

(1) If a Board is satisfied that the necessity for the measures to be taken for any of the purposes specified in section 18 is distinctly referable to any act or omission on the part of the owner or occupier of any land, building or structure within the mining settlement, the Board may, by a notice specifying the measures to be taken, require such owner or occupier, as the case may be,

- (i) to execute within a period to be fixed in the notice, such works as the Board may consider necessary,
- (ii) to maintain in good repair any work executed in accordance with such notice, at his own expense.

(2) If a Board is satisfied that in order to prevent or abate a nuisance affecting the public health it is necessary that any owner or occupier of any land, building or structure in any part of the mining settlement should take any measures with respect to any such land, building or structure belonging to him or in his possession or under his management, the Board may by notice require such person to take such measures at his own expense.

(3) If in any of the cases referred to in sub-sections (1) and (2) the Board is satisfied that immediate action is necessary, the Board may, for reasons to be recorded by it in writing, by a notice specifying the measures to be taken and the estimated expenses thereof (if any), declare its intention of itself taking such measures at the expense of the owner or occupier of the land, building or structure concerned.

20. Objection against requisition :-

(1) Any person who is required by a notice under sub-section (1) or sub-section (2) of section 19 to take any measures, may prefer an objection in writing to the Board within fifteen days from the date of service of the notice on him.

(2) The Board may, after considering the objections (if any) preferred under sub-section (1), withdraw, modify or confirm the notice.

21. Power to execute work, etc., in default of owner or occupier and to recover expenses :-

Subject to the provisions of section 22, where a notice is modified or confirmed, under sub-section (2) of section 20, if any measures required to be taken by the notice, as so modified or confirmed, be not taken, to the satisfaction of the Board within the period fixed by the notice, or within such further period (if any) as may be allowed by the Board, or if any work executed in carrying out such measures be not maintained in good repair to the satisfaction of the Board, or where, in any case, the Board has declared its intention of itself taking any measures under sub-section (3) of section 19, the Board may cause such measures to be taken or such repairs effected in such manner as the Board may think fit, and the expenses incurred thereof shall be recoverable from the defaulting owner or occupier of the land, building or structure concerned, as a public demand.

22. Appeal from declarations and orders under sections 19(3) and 20(2) :-

Any person aggrieved by any declaration made under sub-section (3) of section 19 or by an order passed under sub-section (2) of section 20 may appeal to the Commissioner of the Division within which the mining settlement is situate within thirty days from the date of such declaration or order: Provided that the filing of such an appeal shall not by itself operate, unless the Commissioner so

directs, as a stay of execution of any work to be executed in carrying out any measures by the Board during the pendency of the appeal: Provided further that where any work is executed during the pendency of any such appeal and the appeal is subsequently allowed, the costs of execution shall be borne by the Board.

23. Imposition of fee, water rate and conservancy rate :-

(1) For the purpose of meeting the expenses to be incurred by a Board under this Act, the Board may, in such manner and subject to such terms and conditions as may be prescribed, impose and assess on the owners of a mine or mines, the employees of which reside within the mining settlement, after giving such owners an opportunity of being heard,

(a) a fee payable by all such owners, and also

(b) a water rate and a conservancy rate, payable by the owners of mines the employees of which reside within the area or areas in respect of which provision has been made by the Board

(i) in the case of water rate, for the supply of water, and

(ii) in the case of conservancy rate, for the cleansing of private latrines, urinals and cesspools.

(2) The assessment of the fee, water rate and conservancy rate referred to in sub-section (1) shall be made, on the basis of quantity of annual output of the mine, at such rate, not exceeding,

(i) in the case of the fee, ¹ [rupees one hundred] per hundred metric tonnes,

(ii) in the case of the water rate, fifteen paise per metric tonne, and

(iii) in the case of the conservancy rate, twenty-five paise per metric tonne, as the Board may fix with the previous approval of the State Government.

(3) The fee, water rate or conservancy rate, imposed under this section, shall be recoverable as a public demand.

(4) Subject to the approval of the State Government the Board may, on such terms as may be prescribed, supply water or render conservancy services to private persons, Railway Authority, local authorities and industrial concerns within the mining settlements.

1. Words "rupees forty" first subs. for the words "rupees ten" by W.B. Art 32 of 1981. then the words within third brackets subs. for the words "rupees forty" by W.B. Act 19 of 1992.

24. Acquisition of land :-

(1) When any land whether within or without the limits of a mining settlement is required for the purposes of this Act, the State Government may, on the application of the Board, proceed to acquire it under the provisions of the Land Acquisition Act, 1894.

(2) The Board shall be bound to pay to the State Government the expenses of acquiring any land for the Board on its application under provisions of sub-section (1). Such expenses shall include the compensation awarded under the Land Acquisition Act, 1894, the charges incurred by the State Government in acquiring the land and the costs, if any, incurred by the State Government in proceedings, subsequent to the acquisition, relating to the enhancement of the award for the land.

(3) The State Government shall, on payment to it by the Board of the expenses referred to in sub-section (2), relating to the acquisition of any land, by notification, vest the land in the Board, and thereupon the land shall vest in the Board free from all incumbrances.

CHAPTER 5

The Mining Settlement Fund

25. The Mining Settlement Fund :-

(1) Every mining settlement shall have a fund to be called "the Mining Settlement Fund". Such fund shall be vested in the Board, and there shall be placed to the credit thereof

(a) all sums charged and received by the Board under the provisions of this Act;

(b) all sums paid to the Board out of the Consolidated Fund of the State by the State Government and all sums borrowed by the Board under the Local Authorities Loans Act, 1914, for the purpose of carrying out the provisions of this Act;

(c) all grants received from any local authority, association or private person;

(d) all sums realized as expenses, fees, fines, penalties or otherwise under this Act or the rules or by-laws made thereunder;

(e) all other sums received by or on behalf of the Board.

(2) The custody and the investment of the money to the credit of a Mining Settlement Fund shall be such as may be prescribed.

26. Application of the Fund :-

(1) A Mining Settlement Fund shall be applied for the following purposes, namely:

(i) the payment of expenses incurred by the Board for the purposes of this Act and the rules, by-laws and regulations made thereunder;

(ii) the payment of contributions or grants for the prevention and control of epidemic and other diseases and for welfare activities in the mining settlement, including contributions referred to in sub-section (2);

(iii) the payment of any sums which the Board may be liable to pay as interest on loans, and to the re-payment of the principal of such loans;

(iv) the payment of the cost of audit;

(v) the payment of the salaries and allowances of the officers and servants employed by the Board;

(vi) the payment of expenses incurred by the Board in providing medical assistance, in accordance with regulations made under this Act, to the officers and servants employed by the Board;

(vii) the payment of contributions to a provident or annuity fund for the officers and servants employed by the Board;

(viii) the payment of pensions and gratuities to the officers and servants employed by the Board and to the members of the families of such officers and servants;

(ix) the payment of travelling allowances to members of the Board;

(x) the payment of any advances to the officers and servants employed by the Board to enable them to acquire or construct residences for themselves or to enable them to purchase vehicles for use by them . in discharging the duties imposed on them by or under this Act;

(xi) the payment of any other lawful expenses or of any expenses specially sanctioned by the State Government.

(2) If any medical or public health institution, hospital, dispensary or clinic is established and maintained by the State Government within a mining settlement for the benefit of persons residing within the settlement including those employed in mines, the State Government may require the Board to contribute such share of the cost of establishment and maintenance of the institution, hospital, dispensary or clinic, so established and maintained, as the State Government may consider reasonable.

CHAPTER 6

Penalties

27. Penalties for offences :-

(1) Whoever obstructs any Health Officer or Sanitary Inspector or other person duly authorised by a Board to discharge any duties under this Act or the rules or by-laws made thereunder in the discharge of such duties or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination or inquiry thereunder in relation to any mining settlement, or withholds any information necessary for the purposes of such inquiry, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever makes, gives or delivers any notice or return required to be given by or under this Act containing a statement, entry or detail which is not, to the best of his knowledge or belief, true, shall be punishable with fine which may extend to five thousand rupees.

(3) Whoever commits a breach of the requirements (a) of any notice or order made under any provision of this Act or any rule, by-law or order made thereunder, or (b) of any provision of this Act or any rule, by-law or order made thereunder, for which no penalty is otherwise provided, shall be punishable with fine which may extend to five thousand rupees, and, in the case where such breach is a continuing breach, with a further fine which may extend to one hundred rupees for every day during which the breach is proved to have been persisted in after the date on which the requirements become operative.

28. Offences by companies :-

(1) If the person committing an offence punishable under this Act

is a company, every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that in the case of an offence punishable with fine the company shall also be liable to be proceeded against and punished.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, not being a person deemed under sub-section (1) to be guilty of the offence, such director, manager, secretary or other officer shall be deemed to be guilty of abetment of such offence and shall be liable to be proceeded against and punished in the same manner as the person deemed under sub-section (1) to be guilty of the offence. Explanation. For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals, and (b) "director" includes a share-holder and also (i) in relation to a firm, a partner in the firm, and (ii) in relation to an association of individuals, a member of the association.

CHAPTER 7

Miscellaneous

29. Saving :-

No act or proceedings of a Board, and no act of any of its officers, shall be called in question merely on the ground of the existence of any vacancy in, or defect in the constitution of, the Board or any defect in the appointment of such officer.

30. Act to override other laws, etc :-

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or any instrument made thereunder.

31. Health Officers, Sanitary Inspectors and other officers and servants of the Board to be public servants :-

All Health Officers and all Sanitary Inspectors and such other officers and servants of a Board as the State Government may specify by order made in this behalf shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

32. Protection to persons acting in good faith :-

No suit or other legal proceeding shall lie against any person for anything done or intended to be done in good faith under this Act or the rules, by-laws or regulations made thereunder.

33. Protection to persons obeying orders :-

No person shall be liable for any breach of contract if such breach be due to an order from a Board under this Act or the rules, by-laws or regulations made thereunder.

34. Power to make rules :-

(1) The State Government may, by notification, make, after previous publication, rules for carrying out the purposes of this Act in respect of any mining settlement or any group or class of mining settlements and different rules may be made for different mining settlements or for different groups or classes of mining settlements.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for

(a) the time and manner of holding elections of members of the Board under sub-section (1) of section 7;

(b) leave of members of the Board including leave of the Chairman and the Vice-Chairman;

(c) the powers and procedure of the Board including the calling of, and the conduct of business at, meetings and the number of members required to form a quorum thereat, the delegation to, and exercise by, the Chairman of powers vested in a Board, and the delegation by the Chairman of his powers and functions to the Vice-Chairman or any officer of such Board;

(d) the powers and duties of Health Officers and Sanitary Inspectors;

(e) appeals from any orders passed under this Act where no specific provision exists in this Act for such appeals;

(f) the manner in which and the terms and conditions subject to which the imposition and assessment of fees and rates referred to in section 23, may be made by the Board;

(g) the control of expenditure to be incurred by the Board;

(h) the custody of the Mining Settlement Fund, the maintenance of

accounts of a Board and audit thereof and the preparation and submission of its estimates of income and expenditure;

(i) the conditions as to sanitation, water supply, safety of dwellers and public health, to which buildings or structures within a mining settlement should conform and controlling the construction thereof;

(j) determining the standards of accommodation in cases where accommodation is provided by a Board or owners of mines within the mining settlement for persons employed in mines;

(k) defining the medical assistance to be provided by the owners of mines for their employees who reside within a mining settlement;

(l) any other matter which may be or is required to be prescribed.

(3) All rules so made shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification, if any, as the State Legislature may make during the session in which they are so laid.

(4) Any modification made by the State Legislature under subsection (3) in the said rules shall be published by the State Government by notification, and shall, unless some later date is specified in such notification in this behalf, come into force on the date of such publication.

35. Power of Board to make by-laws :-

(1) Subject to such rules as may be made under section 34, a Board may, after previous publication, make by-laws,

(i) defining the duties of the owners of mines the employees of which reside within the mining settlement, and of all persons acting under them, in respect of such mining settlement;

(ii) defining the matters in respect of which notices, returns and reports shall be furnished by such owners of mines, the form of such notices, returns and reports, the persons and authorities to whom they are to be furnished, and the particulars to be contained therein;

(iii) defining the plans (if any) relating to the mines to be kept by such owners of mines and the manner and places in which they are to be kept for purposes of record;

(iv) providing for measures for the supply of filtered or other water

and for sanitation, drainage and conservancy in the mining settlement;

(v) providing for the taking of measures to prevent the outbreak or spread of, and to combat, epidemic and other diseases in the mining settlement;

(vi) providing for the prevention or abatement of nuisances affecting , the public health committed by any person within the limits of the mining settlement; and

(vii) generally for promoting the safety, health and welfare of employees of mines residing within the mining settlement.

(2) By-laws made under this section shall not take effect until they have been submitted to, and confirmed and published in the Official Gazette by, the State Government.

36. Effect of rules and by-laws :-

Rules and by-laws made under this Act shall be subject to, and shall have effect in so far as they are not inconsistent with, the provisions of the Mines Act, 1952 and the rules and regulations made thereunder.

37. Power of Board to make regulation for certain matters :-

(1)A Board may make regulations providing for

(a) the payment of contributions or grants for the prevention and control of epidemic and other diseases and for welfare activities in the mining settlement;

(b) the qualifications, recruitment, suspension, dismissal, leave, salaries and allowances, medical assistance, and other conditions of service, of the officers and servants, other than Health Officers, employed by the Board;

(c) the grant of pensions and gratuities out of the Mining Settlement Fund to the officers and servants of the Board other than the Health Officers, including the grant of pensions and gratuities to members of the families of such officers and servants of the Board as have died of any disease contracted or injury suffered in the discharge of duties imposed by or under this Act which were attended with extraordinary bodily risk;

(d) the creation and management of a provident or annuity fund,

contributions to be made thereto by officers and servants of the Board, other than Health Officers, and by the Board;

(e) the payment of advances to the officers and servants of the Board for the purpose of enabling them to acquire or construct residence for themselves or to purchase vehicles for use by them in discharging the duties imposed on them by or under this Act.

(2) Regulations made by the Board under sub-section (1) shall not take effect until they have been submitted to, and confirmed by, the State Government.

(3) The State Government may rescind any regulation which it has confirmed and thereupon such regulation shall cease to have effect.

38. Prosecution at the instances of the Board :-

No prosecution shall be instituted for any offence under this Act or under any rule, by-law or order made thereunder, except under the authority of the Board.

39. Cognizance of offences :-

No Magistrate other than a Magistrate of the first class or a Sub-divisional Magistrate shall try any offence under this Act or under any rule, by-law or order made thereunder which is punishable with imprisonment.

40. Powers of Mines Board of Health for obtaining evidence :-

A Board shall have all the powers of a Civil Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents; and every person required by the Board to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

41. Service of notices :-

Any notice under section 19 shall, unless the contrary is proved, be deemed to have been duly served after seven days have elapsed from the date of its despatch by registered post to the usual place of residence or business of the person to whom it is addressed.

42. Power of Director of Health Services, West Bengal :-

(1) The Director of Health Services, West Bengal, or any other officer specially authorised by the State Government in this behalf, shall be entitled

(a) to inspect any movable or immovable property used or occupied by a Board or any work in progress under its direction;

(b) to inspect any work or institution constructed or maintained in whole or in part at the expenses of a Board and all registers, books, accounts or other documents relating thereto;

(c) to supervise the work of the Health Officers of a Board and to record, in writing, for the consideration of the Board, any observations he thinks proper in regard to the promotion of public health and welfare services within the mining settlement;

(d) to attend meetings of a Board and to address its members on any matter relating to public health and welfare services within the mining settlement.

(2) Every Board shall furnish such statements, accounts, reports or copies of documents as may be called for from time to time by the Director of Health Services, West Bengal, or such other officer as the State Government may authorise in this behalf.

43. Power of State Government to alter or rescind orders :-

The State Government may, if it is of opinion that any order passed under this Act by a Board or any officer or servant of the Board is unreasonable or would work hardship or be not in the public interest, rescind or modify such order.

44. Board to comply with directions of the State Government :-

(1) A Board shall comply with all such directions as may be given to it from time to time by the State Government having regard to the provisions of this Act.

(2) If at any time it appears to the State Government that a Board has made persistent default in carrying out any direction given to it under sub-section (1), whether in relation to the functions of the Board referred to in section 18 or otherwise, the State Government may, by order in writing, fix a time for the carrying out of such direction.

(3) If within the time so fixed such direction is not carried out, the State Government may, by order in writing, appoint an officer not below the rank of District Magistrate to carry out such direction and the expenses of carrying it out shall be paid by the Board, within such time as may be fixed by the State Government in the order,

from the Mining Settlement Fund to the officer so appointed.

(4) If such expenses are not paid under sub-section (3), the officer appointed under that sub-section may, with the previous sanction of the State Government, make an order directing the persons having the custody of the balance of the Mining Settlement Fund to pay either at one time or by instalments such expenses in priority to any other charges and such person shall pay accordingly.

45. Power of State Government to supersede a Board :-

1 .

(1) If in the opinion of the State Government a Board

(a) has persistently made default in the performance of the duties imposed on it by or under this Act or by any other law, or

(b) has exceeded or abused its powers, the State Government may, by an order published in the Official Gazette and stating the reasons therefor, supersede the Board, for such period not exceeding two years, as may be specified in the order and take such steps as may be necessary to re-establish the Board immediately on the expiry of the period of supersession.

(2) For the removal of doubts, it is hereby declared that no notice whatsoever is required to be given to the Board for submission of any representation before making any such order of supersession under sub-section (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession of any Board subject however to the condition that the aggregate period of such supersession shall in no case exceed two years.

1. Secs. 45 and 46 ins. by W.B. Act 9 of 1973.

46. Consequences of supersession :-

1 .

(1) When an order of supersession has been made under section 45,

(a) all the members of the Board shall vacate their offices,

(b) all the powers and duties which, under the provisions of this Act or any rule, bye-law or regulation made thereunder or any other

law for the time being in force, may be exercised or performed by the Board shall be exercised or performed by an Administrator to be appointed by the State Government in this behalf, with effect from the date of the order: Provided that an Administrator appointed under this sub-section may delegate any of his powers or duties to any officer or other employee of the Board.

(2) The State Government shall fix the remuneration of the Administrator and direct that such remuneration shall be paid from the Mining Settlement Fund.

(3) All property vested in the Board shall vest in the State Government during the period of supersession.

(4) The State Government may, by an order published in the Official Gazette, cancel an order made under section 45 and re-establish the Board.

(5) On the re-establishment of the Board under sub-section (1) of section 45 or sub-section (4) of this section the Administrator shall cease to exercise his powers or perform his duties.

1. Secs. 45 and 46 ins. by W.B. Act 9 of 1973.