

MINE FOREMEN, COMMISSIONING AS STATE OFFICERS

Act of Jun. 3, 1943, P.L. 848, No. 357

Cl. 52

AN ACT

Providing that every mine foreman, assistant mine foreman and fire boss, under the Bituminous Mining Laws and the Anthracite Mining Laws of the Commonwealth, represents and is an officer of the Commonwealth in the mine in which employed, for the suspension or cancellation of the certificates of such officials as shall hold same, and for the disqualification of such as are uncertificated by the Secretary of Mines after or prior to hearing, for failure or refusal to perform his respective duties; defining the procedure in such hearing and the powers of the Secretary of Mines, with respect thereto, and providing for a review of his decisions by courts of common pleas and the Superior Court; providing for re-examination by the examining board of any person whose certificate has been cancelled, and for reinstatement of such as are uncertificated; and prohibiting the employment by any operator in such capacity of any mine foreman, assistant mine foreman or fire boss not possessing the requisite certificate or whose certificate is suspended or who has been disqualified.

Compiler's Note: Section 3101 of Act 55 of 2008 repealed Act 357 to the extent that Act 357 applies to bituminous coal mines.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Every mine foreman, assistant mine foreman or fire boss, under the provisions of the Bituminous mining laws or the Anthracite Mining Laws, shall represent the Commonwealth in the coal mine or colliery in which he is employed and be deemed to be an officer of the Commonwealth in enforcing the provisions of said Mining Laws and performing his duties thereunder. He shall perform said duties during such times as the mine or colliery in which he is employed is in operation, and at such other times as in the judgment of the operator or the Secretary of Mines shall be necessary or desirable to make the mine or colliery safe for operations or to protect the health and safety of the employes of the operator or the safety of the mine or colliery properties.

Section 2. Upon complaint of any mine inspector that a mine foreman, assistant mine foreman or fire boss has failed or refused to perform any duty with which he is charged under the provisions of the law, or has engaged in any acts or activities interfering with the safe and lawful operation of any mine or colliery, specifying the particular acts, failure or refusal, the Secretary of Mines, or in his absence or incapacity to act, any deputy secretary, may, after written notice to such official, setting forth said complaint, a hearing thereon and appropriate findings as hereinafter provided, suspend for a period of not more than one year, or revoke absolutely, the certificate of such mine foreman, assistant mine foreman or fire boss. The Secretary of Mines, upon receiving any such complaint, shall have the power, if he deems such action advisable, forthwith to suspend the certificate of such official temporarily until such hearing and determination of the charges have been completed.

Section 3. Said hearing shall be conducted by the Secretary of Mines or a deputy secretary, or other qualified

representative of the Commonwealth delegated in writing by the secretary, at such time and place in the district where the official charged is employed, as the person conducting the hearing shall designate, and on not less than five (5) days' written notice thereof. The official charged, the operator of the mine or colliery in which said official was employed, or his or its representative, shall have the right to appear at said hearing, in person, to be represented by counsel to present testimony and other evidence material to said charge, and to examine witnesses. All testimony taken at such hearing shall be under oath and shall be reduced to writing by a competent person designated by the Secretary of Mines. The person conducting said hearing shall cause to be compiled and filed with the Secretary of Mines, a complete record of said hearing. Within ten (10) days following the close of such hearing, any party to the proceeding may file with the Secretary of Mines a written brief or argument. The Secretary of Mines shall, within thirty (30) days following the close of such hearing, make findings based on the evidence and shall embody such findings in an order, determining the charges and stating the action taken thereon. Such findings and order shall be served upon all parties to the proceeding, either personally or by registered mail, within (10) days after such findings. The Secretary of Mines shall have authority, from time to time, to make, amend and rescind rules and regulations relating to the conduct of hearings under this act.

Section 4. The Secretary of Mines shall have the right at any time to modify his order embodying such action. Any official whose certificate has been revoked shall have the right after one (1) year to appear before the proper Mine Foremen's Examining Board and be re-examined, and if he satisfies the board that he is then qualified to perform his duties and passes a satisfactory examination, he shall be given another certificate of qualification.

(4 repealed in part June 3, 1971, P.L.118, No.6)

Section 5. For the purpose of carrying out the provisions of this act, the Secretary of Mines or any deputy secretary or other person delegated by the secretary to conduct a hearing, as herein provided, shall have the power to administer oaths and affirmations, examine witnesses, receive evidence and issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation. In case of refusal to obey any subpoena issued to any person, any court of common pleas within the jurisdiction where the hearing is held or within the jurisdiction where the person guilty of refusal to obey is found or resides or transacts business, shall, upon application of the Secretary of Mines or his authorized representative, have power to enforce such subpoenas in contempt proceedings.

Section 6. Orders and other process and papers of the Secretary of Mines under this act may be served, either personally or by registered mail, or by leaving a copy thereof with some adult person at the home or principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of serving, shall be proof of the same and the return post office receipt therefor, when registered and mailed, shall be proof of service of the same.

Section 7. Any person without a certificate employed to perform the duties of mine foreman, assistant foreman or fire boss under the provisions of the Bituminous or Anthracite Mining Laws, who fails or refuses to perform his duties or who engages

in any acts or activities interfering with the safe and lawful operation of any mine or colliery shall also be subject to like complaint and disciplinary action by the Secretary of Mines. All the provisions of sections 2 to 6 inclusive, hereof applicable to proceedings involving a certificated official, shall also be applicable to proceedings involving an uncertificated official: Provided, That in the case of an uncertificated official, the Secretary of Mines, upon finding that the charges have been sustained, shall make an order disqualifying said official from holding office for a period of not more than one year: And provided further, That such official shall have the right, after his period of disqualification, to be reinstated in good standing, upon satisfying the Secretary of Mines that he is then qualified to perform his duties.

Section 8. No operator may lawfully employ or continue in employment in such capacity, a mine foreman, assistant mine foreman or fire boss whose certificate has been suspended or revoked during the effective period of such suspension or revocation, or who has been disqualified during the effective period of such disqualification.

Section 9. All other acts or parts of acts inconsistent herewith are hereby repealed.

Section 10. This act shall become effective immediately upon final enactment.