

# *The Mines Regulation Act, 1895.*

(59 Vict., No. 37.)

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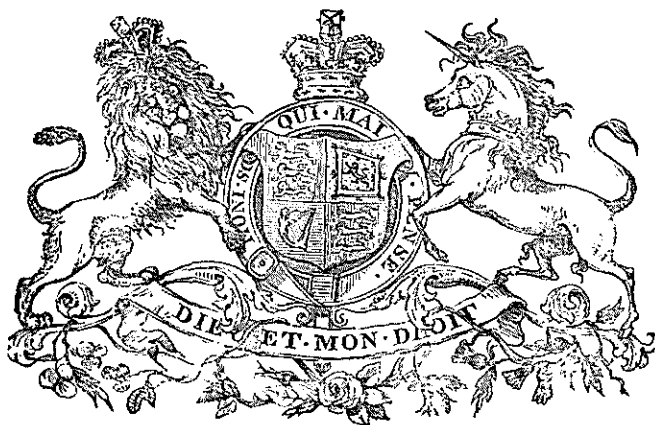
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## Western Australia.

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# VICTORIÆ REGINÆ.

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No. XXXVII.

### AN ACT to provide for the Regulation and the Inspection of Mines and Collieries.

[Assented to, 12th October, 1895.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as "The Mines Regulation Act of 1895," and shall apply only to such Goldfields, Goldfield Districts, and Mineral Districts or portions thereof respectively as the Governor may, by Order in Council, from time to time direct.

Short title.

2. THIS Act shall apply only to mines in which more than five persons are ordinarily employed below ground, provided that the Governor in Council may, by proclamation in the *Government Gazette*, extend the operation of this Act to any specified mine where less than five persons are employed.

Limitation of Act.

3. THIS Act is divided into two parts: the First Part relating to mines in general; the Second Part to collieries only.

Division of Act.

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#### Interpretation.

4. FOR the purposes of this Act the following terms in inverted commas shall, unless the context otherwise indicates, bear the meanings set against them respectively :—

“Minister”—The Minister for the time being charged with the administration of this Act.

“Warden”—A warden appointed under the provisions of any Goldfields Act.

“Registrar”—The Registrar of a mineral lands district under “The Mineral Lands Act of 1892.”

“Inspector”—An Inspector of Mines appointed under this Act.

“Owner”—When used in relation to any mine, means any person or body corporate, who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, but does not include a person or body corporate which merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine.

“Agent”—A person having, on behalf of the owner, the care or direction of a mine or of any part thereof.

“Mining Manager” or “Manager”—The person who has immediate charge on a mine of the mining operations carried on in or upon the same, and includes a Deputy Manager.

“Mine”—A claim, place, pit, shaft, drive, level, vein, lode, or reef in or by which an operation is carried on for obtaining any metal or mineral by any mode or method whatever, or any shaft, level, or plane being sunk or driven for the same purpose.

“Colliery”—A mine worked for the production of coal, shale, stratified ironstone, or fireclay.

“Gazette”—The “*Government Gazette* of Western Australia.”

“Machinery”—Steam or other engines, boilers, furnaces, stampers, rollers, winding and pumping gear, chains, trucks, tramways, tackle, blocks, ropes, tools, and all appliances of whatever kind used in or about a mine.

“Plan” includes a map or section and a correct copy or tracing of any original plan as so defined.

“Prescribed”—Prescribed by this Act or by any Regulations made thereunder.

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5. ANY person who is guilty of an offence against this Act, for which no specific penalty is herein provided, shall be liable to a penalty not exceeding, if he is the owner, mining manager, or person in charge of, or giving orders or directions relating to the carrying on of any mining operations in a mine, Fifty pounds, and if he is any other person, Ten pounds for each offence, to be recovered in a summary manner before two or more Justices. The whole or any part of such penalty may be awarded by such Justices to any person injured, or to the personal representative of any person killed in consequence of any such offence, and such award shall be in addition to the right of action such person or personal representative has under this Act or otherwise.

Penalties for offences against this Act.

6. SECTIONS "A" and "D" of the Schedule to "The Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this Act to all intents and purposes and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Incorporation of Sections A and D of Schedule to "Shortening Ordinance, 1853."

### PART I.—GENERAL.

7. THE Governor in Council may from time to time appoint persons possessing competent knowledge, skill, and experience to be inspectors of mines, and assign them their duties.

Appointment of inspectors.

Notice of the appointment of every such inspector shall be published in the *Gazette*.

8. NO person who practises or acts, or is a partner of any person who practises or acts, as a land agent, or mining engineer, or as a manager, viewer, agent, or valuer of mines, or arbitrator in differences arising between owners, agents, or managers of mines, or holds directly or indirectly any interest in a mine within the district for which he acts as inspector, or is otherwise employed in or about any mine, shall act as an inspector of mines under this Act.

Disqualification for office of inspector.

Any person who contravenes the provisions of this section shall be guilty of a misdemeanour, and be liable on conviction to a fine not exceeding One hundred pounds or to imprisonment for a term not exceeding twelve calendar months.

9. AN inspector under this Act shall have power to do any of the following things, namely:—

Powers of inspectors.

- (1.) To make such examination and inquiry as are necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine.

- (2.) To enter, inspect, and examine any mine and every part thereof at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine.
- (3.) To examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and the ventilation of the mine, and, in the case of a colliery, the sufficiency of the special rules, if any, for the time being in force therein, and all matters or things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto.
- (4.) To examine into and make inquiry respecting the state and condition of any boiler or other machinery, and, if advisable, to have the same tested in his presence, in any manner prescribed by this Act.
- (5.) To initiate and conduct prosecutions against persons offending against the provisions of this Act.
- (6.) To appear at all inquiries held respecting mining accidents, and, if he thinks fit, to call and examine and cross-examine witnesses.
- (7.) To exercise such other powers as are necessary for carrying this Act into effect.

Obstructing  
inspectors.

**10.** EVERY person who wilfully obstructs an inspector in the execution of his duty under this Act, and every owner, agent, or manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making an entry, inspection, examination, or inquiry under this Act in relation to such mine, shall be guilty of an offence against this Act.

Upon miner making  
complaint inspector  
to make inquiry.

**11.** UPON any miner working in any mine making a complaint under this Act to any inspector, such inspector may, if he shall think fit, make inquiry into the matter of such complaint, and take such other steps as he may deem necessary to investigate the matter, and the name of the informant shall not be divulged by the inspector.

Inspection by  
representatives of  
miners.

**12.** IF the workings in any mine or any portion thereof are considered unsafe by the miners working therein, they may appoint two competent miners to examine and inspect the workings of such mine by giving twenty-four hours' notice to the mining manager (who may, if he thinks fit, accompany them), and all persons in the mine shall afford every facility for such inspection, and the persons so appointed shall record the results of such inspection in a book to be kept at the mine for the purpose, and the report shall be signed by the persons inspecting.

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**13.** EVERY mine shall be under the control and daily supervision of a manager, and the owner or agent of every such mine shall nominate himself, or some other person, to be the manager of such mine.

Managers to be appointed.

Every mining company, whether registered or co-operative, shall appoint and continue to have a manager, who shall be deemed the mining manager of the company under this Act.

The name and address of every manager for the time being shall be notified in writing by the person or body appointing him to the nearest inspector, warden, or registrar, within fourteen days after his appointment; and no person shall be appointed who has not the management of the mining operations carried on in or at such mine.

No person shall be appointed to act as manager of more than two mines at one and the same time, and no person who has been appointed manager of any mine in which twenty men are employed below ground shall, whilst he holds such appointment, be appointed manager of any other mine, nor shall he act as such manager.

Appointment of managers.

**14.** IF any mine is worked for more than seven days without there being a manager for that mine, as required by the last preceding section, the owner and agent of such mine shall each be liable to a penalty not exceeding Ten pounds, and to a further penalty not exceeding Ten pounds for each day during which such mine is so worked.

Penalty for non-appointment.

**15.** IF any manager is incapacitated from performing his duties, or is about to be absent for more than three days, he, or the agent, shall appoint some fit person to act as deputy manager during such illness or absence, and shall notify such appointment to the nearest inspector, warden, or registrar, as provided in section thirteen of this Act.

Temporary absence of manager.

**16.** THE manager of every mine shall enforce the observance of all the provisions of this Act in and upon the mine under his charge, and shall, as soon as practicable after the occurrence thereof, report in writing to the nearest inspector, warden, or registrar any offence against this Act which has been committed in or on the mine, whether the person committing it was or was not employed in the work of the mine; and in the event of the contravention of or noncompliance with this Act in or upon any mine, by any person, the manager of such mine shall be guilty of an offence against this Act.

Duties and responsibility of manager.

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Provided that such manager shall not be deemed guilty of such offence if he proves to the satisfaction of the Court that he had taken all reasonable means of enforcing the provisions of this Act, and of preventing such contravention or non-compliance.

But the manager shall supervise all work carried out by contract in the mine, and shall be responsible for any offence against this Act committed by any contractor or his workmen, unless he shall prove that he had taken all reasonable means to prevent such offence, and had reported the same to the nearest inspector, warden, or registrar immediately after it came to his knowledge.

Notice of accident  
to be given to  
Inspector of Mines.

**17.** THE mining manager shall, within twenty-four hours, or as soon thereafter as possible, after the occurrence of any accident in or upon any mine attended with serious injury to any person, give notice thereof to the inspector; and any mining manager who omits to give such notice shall be deemed guilty of an offence against this Act.

Place of accident  
not to be interfered  
with.

**18.** THE place in which an accident occasioning personal injury has occurred shall not be interfered with, except with a view of saving life or preventing further injury, until it has been examined by the inspector, or, in his absence, if demanded by any three miners engaged on the mine, by two competent persons to be appointed by a Warden or a Justice of the Peace.

Burden of proof to  
lie on defendant.

**19.** IN any proceeding under the provisions of this Act, against a mining manager or person in charge of the mining operations in or upon a mine, the burden shall lie on the defendant of proving he is not such manager or person.

Accident evidence of  
neglect.

**20.** THE occurrence of any accident in or on a mine shall be *prima facie* evidence of neglect on the part of the owner and the manager.

No boy or female to  
be employed.

**21.** NO boy under the age of fourteen years, and no female, shall be employed below ground in any mine.

No boy under the age of sixteen years shall be allowed to handle, charge, or fire explosives.

This section to be  
posted in office.

A printed copy of this section shall be posted in the office, if any, and on a building or board in some conspicuous place in connection with every mine.

Person in charge of  
machinery to be em-  
ployed certain num-  
ber of hours only.

**22.** NO person in charge of steam machinery used in connection with any mine, or for the treatment of the products of any mine,



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shall be so employed for more than eight consecutive hours at any time, or for more than eight hours in any twenty-four hours; such period of eight hours to be exclusive of any time occupied in raising steam and in drawing fires and exhausting steam in connection with the machinery in charge of such person, and exclusive of meal hours, and of any time in which such person is employed in case of breakage or other emergency.

Every person in charge of machinery who is guilty of negligence by which any property is destroyed or damaged shall be guilty of an offence against this Act. Negligence and offence.

The mining inspector shall, after every inspection, record in a book to be kept on the mine for that purpose, any defect which he observes in the state and condition of the mine and machinery: Provided nothing contained in or absent from such written report of the inspector shall be held to limit or affect the responsibility imposed upon the owner or manager by this Act. Observed defect to be recorded.

#### GENERAL RULES.

**23.** THE following general rules shall, wherever reasonably practicable, be observed in every mine:— General rules.

- (1.) An adequate amount of ventilation shall be constantly produced in the mine to such an extent that the shafts, winzes, levels, underground stables, and working places of the mine, and the travelling roads to and from such working places, shall be in a fit state for working and passing therein. Ventilation.
- (2.) Gunpowder or other explosive or inflammable substance shall only be used in a mine as hereunder provided, that is to say,— Gunpowder and blasting.
  - (a.) It shall not be stored on the surface of or adjacent to the mine, unless in such place as is in writing approved by the inspector, nor in any quantity exceeding five hundred-weight.
  - (b.) It shall not be stored in a level in any mine, in any quantity exceeding fifty pounds of gunpowder or dynamite, or other nitro-glycerine compound. And if stored in the mine it shall be kept in a drive or chamber separated by a door fixed across such drive at least thirty feet from any travelling road.
  - (c.) It shall not be taken for use into the workings of the mine, except in a securely covered case

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or canister containing not more than eight pounds of gunpowder, or five pounds of dynamite or other nitro-glycerine compound.

(*d.*) A workman shall not have in use, at any one time in any place, more than one of such cases or canisters.

(*e.*) Detonators for blasting shall be kept on the surface of the ground, in a covered box, placed in a separate magazine.

Not more than one hundred detonators shall be kept underground in any level at one time, and these shall be kept in a covered box in a separate drive or chamber, and only taken out in such quantities as required for immediate use. Detonators shall not, on any pretence whatsoever, be placed near any travelling road, pass, or working face.

(*f.*) No person shall enter, with a naked light, a powder magazine, or any excavation in a mine where powder or other explosive or inflammable substance is stored.

(*g.*) In a mine, no iron or steel pricker shall be used in blasting, and no iron or steel tool shall be used in tamping or ramming.

(*h.*) A charge which has missed fire may be drawn by a copper pricker, but in no case shall any iron or steel tool be used for the purpose of drawing or drilling out such charge.

(*i.*) A charge which has missed fire shall not be approached until one hour has elapsed from the time of lighting the fuse. This rule shall not apply to charges fired by an electric current.

Man-holes to be provided in self-acting or engine planes.

(3.) Every underground plane, whether self-acting or worked by an engine, whim, or whip, shall, for the use of persons travelling thereon, be provided (if exceeding forty yards in length) with some proper means of signalling between the stopping places and the ends of the plane; and shall be provided in every case, at intervals of not more than twenty yards, with sufficient man-holes for places of refuge.

Spaces in horse roads.

(4.) Every road on which the produce of the mine in transit exceeds ten tons per hour over any part thereof, and on

which the load is drawn by a horse or other animal, shall, for the use of persons travelling thereon, be provided, at intervals of not more than one hundred yards, with sufficient spaces for places of refuge, each of sufficient length, and of at least three feet in width between the wagons running on the tram road and the side of the road.

- (5.) Every manhole and space for a place of refuge shall be constantly kept clear, and no person shall so place anything in such manhole or space as to prevent access thereto. Keeping spaces clear.
- (6.) The top, and all entrances between the top and bottom of every working or pumping shaft shall be properly and securely fenced or covered, but this provision shall not be taken to forbid the temporary removal of a fence for the purpose of repairs or other operations, if proper precautions are used; and every abandoned or disused shaft shall be fenced or securely covered in by the lessee or registered owner thereof, and its position indicated on the surface by a post with a notice thereon affixed. Fencing of entrance to shafts.
- (7.) Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure. Securing of shafts.
- (8.) Every drive and every excavation of any kind in connection with the working of a mine shall be securely protected and made safe for persons employed therein. Drive and excavation to be protected.
- (9.) Where one portion of a vertical shaft is used for the ascent and descent of persons by ladders or a man-engine, and another portion of the same shaft is used for raising material, the first-mentioned portion shall be cased or otherwise securely fenced off from the last-mentioned portion. Division of shaft.
  - (a.) In the case of underlie shafts, no material shall be raised at the same time as any person is travelling in the shaft, unless the travelling portion of the shaft is fenced off from that used for raising material.
- (10.) Every working shaft in which a cage is used, and every division of such shaft in which persons are raised, shall, if exceeding fifty yards in depth, be provided with guides and some proper means of communicating distinct and definite signals: Signalling.

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(a.) From the bottom of the shaft, and from every entrance for the time being in work between the top and the bottom, to the top, and thence to the engine-room; and

(b.) From the engine-room and top to the bottom of the shaft, and to every entrance for the time being in work between the top and the bottom of the shaft.

- (11.) All methods of signalling in mines to indicate that men or material are to be raised or lowered in shafts shall be clear and distinct, and shall be posted in a clear and legible form on framed boards, one of which shall be placed at the chamber at the bottom of the workings in the shaft, another on the brace, and a third in the engine-room.

Such methods shall be subject to the approval of the inspector, and shall also be subject to such alterations and amendments as may from time to time be indicated by the Minister on the report of the inspector, and any neglect to carry out such indicated alterations or amendments shall be an offence against this Act.

A line, or some other appliance, shall be provided in each shaft to admit of danger signals being communicated to the engine-driver from any portion of such shaft.

Every person employed in a mine shall make himself acquainted with the system of signals used in such mine.

- (12.) A clear view shall be kept for the engine-driver between his station and the shaft at the surface brace.

Proper ladder or  
footway.

- (13.) A proper ladder or footway shall be provided in every working shaft where no machinery is used for lowering or raising persons employed therein.

Slipping of rope on  
drum.

- (14.) There shall be flanges or horns on the drum of every machine used for lowering or raising persons, and also, if the drum is conical, other appliances sufficient to prevent the rope from slipping.

Brake.

- (15.) An adequate brake shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, and also a proper indicator showing to the person who works the machine the position of the cage or load in the shaft.

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- (16.) No person under the age of eighteen years shall be placed in charge of or have the control of any steam engine used in connection with the working of a mine. No person in charge of the steam machinery working in a mine shall, under any pretext whatever, unless relieved by a competent person, absent himself or cease to have continual supervision during the time such machinery is so used. Person in charge of machinery.
- (17.) When the only means of egress from a mine is a machine worked by steam, water, or mechanical power, such machine shall be always kept ready for use whilst any person is below in the mine. Means of egress to be kept ready for use.
- (18.) In raising or lowering men, the rate of speed shall not exceed two hundred feet per minute when the cage or bucket is within one hundred feet of the surface, nor five hundred feet per minute in any part of the shaft.
- (19.) No iron, timber, tools, rails, sprays, or other material, except when repairing the shaft, shall be placed in the same cage in which men are being lowered or raised from their work.
- (20.) All machinery, whether above or below ground, shall be kept in good order and condition.
- (21.) Every brace or pit-bank shall be properly covered to protect the workmen from the inclemency of the weather.
- (22.) No person under the age of eighteen years shall be employed as lander or braceman on any mine, and the brace and all elevated tramways leading therefrom shall be securely fenced. Brace and tramways.
- (23.) Every fly-wheel, and all exposed or dangerous parts of the machinery used in or about the mine, shall be kept securely fenced. Fencing machinery.
- (24.) Every steam boiler or other vessel in which pressure is used shall be provided with a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety valve. Once in every twelve months every such boiler or vessel shall be subjected to hydraulic test, and the date and full description of every such test shall be entered in a book kept by the mining manager or other person in charge of the mine, and the entries in such book shall, on demand, be open to the perusal of an inspector under this Act. Gauges to boiler and safety valve.

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Seven days previous notice, in writing, shall be given by the owner to the nearest inspector, warden, or registrar of the day and hour any boiler or vessel is to be tested under this Act.

The safety valve shall be so adjusted that when the machine is working the pressure in any boiler or vessel shall not exceed two-thirds of that shown by the last preceding test to be a safe pressure for that boiler or vessel.

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| Wilful damage.   | (25.) No person shall wilfully damage, or without proper authority use, remove, or render useless any fencing, casing, lining, guide, means of signalling, signal cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve, or other appliance or thing provided in a mine.  |
| Boring rods to be used.  | (26.) In every working in a mine approaching a place likely to contain a dangerous accumulation of water, boring rods shall be used for the purpose of perforating the ground in advance of such working, and no drive, gallery, or other excavation shall be made within a dangerous distance of such accumulation of water.  |
| Mining manager in charge of a mine to inspect.                 | (27.) The mining manager shall, once in each week, carefully examine the buildings and machinery used in the working of the mine and the condition of the mine itself, and shall record, in writing, in a book kept for that purpose, his opinion as to their condition and safety, and any repairs and alterations required to ensure greater safety to the persons employed therein. |
| Shafts with vertical or overhanging ladders to have platforms. | (28.) After the passing of this Act, every ladder constructed and fixed in a shaft for the ascent and descent of persons working in the mine shall be inclined at the most convenient angle which the space allows, and such ladder shall have substantial platforms at intervals of not more than fifteen yards, and spaces for foothold of not less than six inches.                 |
| Cover overhead.  | (29.) A sufficient cover overhead shall be used when lowering or raising persons in every working shaft, except where it is worked by a whim, or whip, or windlass, or where a person is employed about the pump, or some work in the shaft.   |
|  | (30.) Every cage used in a mine shall be fitted with a safety hook, or other suitable appliance, to prevent its fall down the shaft through overwinding.   |

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- (31.) Suitable lights, protected from draughts of air, shall be provided in the main drives of any mine, and the upper entrance to every winze, rise, or jump-up, while open or unfenced, shall be illuminated by a fixed light.
- (32.) Ladders shall be fixed in each winze, rise, or jump-up, so as to give access from the lower to the higher levels in a mine. But it shall be sufficient to have one such means of access from each level to the one above it.
- (33.) Safety cages shall be provided, when required by the inspector, and shall be tested before they are used.
- (34.) If more than four persons are employed below ground in any mine, in one shift, sufficient accommodation shall be provided above ground, near the principal entrance of the mine, and not in the engine-room or boiler-house, for enabling the persons employed in the mine to conveniently dry and change their dresses, and in no case shall men be allowed to change their dress upon a boiler.
- (35.) When a fence has been temporarily removed from an entrance to a shaft to admit of the carrying on of ordinary mining operations, a strong horizontal bar shall be securely fixed across the entrance not less than four nor more than five feet from the floor of the brace, chamber, or drive, as the case may be.

Temporary removal of fence from shaft.

Every person who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Act; and in the event of any contravention of, or non-compliance with, any of the said general rules by any person whomsoever being proved, the mining manager shall also be deemed guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing, and to the best of his power enforcing, the said rules to prevent such contravention or non-compliance.

Contravention of this section an offence.

**24.** IF in the opinion of the inspector the observance of the foregoing general rules, or any of them, is not reasonably practicable in any particular mine, the Governor in Council may, from time to time, by notification in the *Gazette*, suspend, alter, or vary such rules, or any of them, in such manner as he deems necessary in respect to such mine. And any general rules so altered or varied shall be deemed to be the general rules of the mine to which they relate.

Governor in Council may suspend, alter or vary rules.

**25.** A PRINTED copy of the general rules as aforesaid and of this section shall be posted in the office, if any, and on a building or board in some conspicuous place in connection with every mine.

Rules to be posted on conspicuous places.

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Penalty for defacing notices.

And every person who pulls down, injures, or defaces a notice hung up or affixed as required by this Act shall, for every such offence, be liable to a penalty not exceeding Forty shillings.

Employés to satisfy themselves of safety of appliances. Failure to report danger.

**26.** EVERY person employed in or about a mine shall, before commencing, and whilst at work, use ordinary and reasonable precaution to ascertain that the tubs, chains, tackle, windlass, ropes, or other appliances he uses are not unsafe; he shall not use anything unsafe, or apparently unsafe; and every such person who witnesses in or about the mine anything likely to produce danger of any kind shall forthwith report the same to the mining manager, and on leaving work he shall report to the man relieving him the state of that part of the works where he has been employed, or otherwise he shall be guilty of an offence against this Act.

Employer to compensate employé injured through negligence of owner or his agent.

**27.** IF any person in or about a mine suffers injury in person, or is killed, owing to the negligence of the owner of such mine or his agent or agents, or owing to the non-observance in such mine of any of the provisions of this Act (such non-observance not being solely due to the negligence of the person so injured or killed), the person injured, or his personal representatives, or the personal representatives of the person so killed, may recover, in any court of competent jurisdiction, from the owner of such mine compensation by way of damages, as for a tort committed by such owner.

Provided that, in estimating the damages and deciding the question of costs, due regard shall be had to the extent (if any) to which the person injured or killed contributed, by any negligence on his own part, to the injury or death.

What is an offence against this Act.

**28.** ANY person who contravenes or does not comply with any of the provisions of this Act, or who, by the negligence of himself or his agent, causes any person to be injured or killed, shall be deemed guilty of an offence against this Act.

Protection of abandoned shafts.

**29.** ANY person who shall, after any shaft has become disused for mining purposes, wilfully damage or render it useless by the removal of any fencing, casing, lining, ladder, platform, or other appliance provided in such shaft, without the consent of the Minister or inspector, shall be guilty of an offence against this Act. This section shall apply to all mines, but shall not apply to any owner of freehold land wherein any such shaft is situated.

Cost of working Act, how defrayed.

**30.** ALL cost and expenses incident to carrying the provisions of this Act into effect shall be defrayed out of moneys to be from time to time appropriated by Parliament for that purpose.



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**31.** THE owner, agent, or manager of every mine, where six or more men are ordinarily employed underground, shall keep at the office at the mine an accurate plan, on a scale of two chains to one inch, of the workings of such mine, made by a duly qualified mining engineer or manager, or by a mining surveyor authorised as such by the Minister, showing the workings up to within three months past, and shall produce such plan at the mine to any inspector or to any other person duly authorised by the Minister, and shall, if requested by any such inspector or other person, mark on such plan the progress of the workings of the mine up to the time of such production, and shall allow the inspector to examine and take a copy or tracing thereof.

Plans to be  
furnished

(1.) Every such copy or tracing shall be deposited with such person at such place as the Minister may appoint, and no copy or tracing thereof shall be furnished, nor information in relation thereto given, nor shall such plans or tracings be open to inspection, unless with the permission of the Minister. If any officer shall, without the consent of the Minister, furnish any copy, tracing, or information, or shall allow any person to inspect any such plan or tracing, he shall be guilty of an offence against this Act.

(2.) If the owner, agent, or manager of any mine fails to keep such a plan as is prescribed by this section, or wilfully refuses to produce such plan or to allow it to be examined or copied, or conceals any part of the workings of his mine, or produces an imperfect or inaccurate plan, he shall be guilty of an offence against this Act.

**32.** WHERE any mine of which a plan should be kept, under the last preceding section, is abandoned, the owner at the time of abandonment shall, within three months thereafter, forward to the Minister an accurate plan, on a scale of two chains to one inch, showing the boundaries of the workings of such mine up to the time of abandonment.

Where mine abandoned plans to be deposited with Minister.

Every person who fails to comply with this section shall be guilty of an offence against this Act.

#### ENGINE DRIVERS.

**33.** THE Governor in Council may from time to time appoint, for any goldfield, goldfield district, or mineral district, a Board of two or more competent persons to examine candidates who may be desirous to qualify themselves as engine-drivers, and such Board, when satisfied of the skill and competence of any candidate,

Examination of  
Engine-drivers.

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and that he is not subject to any physical infirmity such as deafness, defective vision, or epilepsy, which would render him unfit, may grant to him a certificate of fitness and competency.

Certificates of service for engine-drivers to be granted.

**34.** THE said Board shall grant a certificate of service to every person who furnishes to the said Board satisfactory evidence that he has been in charge of, and has efficiently managed upon a mine, machinery worked by steam, for a period of twelve months prior to the application for such certificate, and such certificate shall confer the same privileges as a certificate for competency.

No uncertificated driver to be employed.

**35.** AFTER the expiration of six months from the date of the Order in Council applying this Act to the goldfield, goldfield district, or mineral district, or portions thereof respectively, no person who does not hold a certificate of service or of competency shall take or have charge of any machinery in which steam, water, or air is used as a motive power on any mine; and any uncertificated person so taking charge, and also any person so employing him, shall be guilty of an offence against this Act.

Certificate may be cancelled or suspended.

**36.** ANY person holding a certificate of service or of competency as an engine-driver may, if charged with any offence or misconduct, be called upon by a Board of Examiners to show cause why his certificate shall not be cancelled; and if he shall not appear, or if the said Board shall find that he has been guilty of any negligence or misconduct, whereby life or property was or might have been endangered, the Board shall have power to cancel his certificate, or to suspend it for such period as it may think fit.

### PART II.—COLLIERIES.

Miners' inspection.

**37.** THE persons employed in a mine may, at their own cost, appoint two of their number to inspect the mine, and the persons so appointed shall be allowed once at least in every month to go to every part thereof, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings, and machinery; and the manager (who may if he thinks fit accompany them) and all persons in the mine shall afford every facility for such inspection, and the persons so appointed shall record the result of such inspection in a book kept at the mine for the purpose, and the report shall be signed by the persons inspecting.

Noxious gases in coal and shale mines.

**38.** IF at any time it is found by the person in charge of a colliery, or any part thereof, or by the inspector, that by reason of noxious gases or of any cause whatever, the colliery or the said part is dangerous, every workman shall be withdrawn therefrom, and the

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mining manager or inspector shall inspect the same (and if the danger arises from inflammable gas shall make such inspection with a locked safety-lamp); and in every case shall make a true report of the condition of such colliery or part thereof; and no workman shall, except in so far as is necessary for inquiry into the cause of danger, or for the removal thereof, or for exploration, be readmitted into the colliery or such part thereof as was so found dangerous until the same is reported by the mining manager or inspector to be safe. Every report shall be recorded in a book kept at the colliery for the purpose, and shall be signed by the person reporting, and shall be accessible to any person employed in or about the mine.

**39.** WHENEVER a safety-lamp is required to be used, it shall be first examined and securely locked by some person who is duly authorised for that purpose by the manager, and who shall keep the key thereof. And no one except the person so authorised shall have in his possession or shall use any key or other contrivance for the purpose of opening any safety-lamp.

Safety-lamps.

**40.** WITHIN one year and six months after commencing the working of any bores, stalls, or long wall workings in any mine, there shall be made and completed at least two separate openings to the day or surface from such mine, intercommunicating with each other, by means of either of which openings all persons employed in the mine may at all times whatsoever pass in or out.

Two openings to be furnished in mine.

And the owner of any mine wherein two such openings shall not be completed as aforesaid shall be liable to a penalty not exceeding Fifty pounds for every month during which the same shall remain incomplete whilst work is carried on in the mine.

But this section shall not apply so long as not more than ten persons are employed below ground at any one time in the whole of the different seams in connection with each outlet in such mine or working.

In any mine wherein such bores, stalls, or long wall workings have been commenced before the application of this Act to the mineral district or part thereof wherein such mine is situate, and without a second opening as aforesaid, a second opening shall be made and completed within one year and six months after the date on which this Act shall be so applied.

**41.** NO person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts

No liability to be incurred by making second shaft.

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as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Disqualification for  
post of manager or  
under-manager.

**42.** A CONTRACTOR for mineral or person employed by such a contractor is not eligible for the post of manager or under-manager under this Act, nor will the letting of any colliery to a contractor lessen in any way the responsibility or liability of the owner, agent, or manager of any colliery.

Special rules.

**43.** WITHIN three months after the commencement of this Act, or within three months after work is commenced at any colliery, the mining manager thereof shall frame such special rules for the conduct and guidance of persons employed in or about the colliery as appear under the particular state and circumstances best calculated to ensure their health and safety; and such mining manager shall cause a copy of such special rules to be hung up in some conspicuous place in the colliery, and call the attention of the miners working therein to them. A copy of such rules shall also be at once transmitted by the mining manager to the Minister, and if they are not objected to within one month after the receipt thereof by the Minister, they shall be the special rules of the colliery, and shall be published in the *Gazette*.

Mode of adopting  
special rules when  
objected to.

**44.** IF the Minister does not approve of any proposed special rules he shall, within thirty days after the receipt of them, propose and transmit to the mining manager by whom they were framed, and to some person on behalf of the miners employed in the colliery to which they refer, any alteration in or addition to the same, or the substitution of any other rules therefor.

If the mining manager objects to any such alteration, or addition, or substituted rules, he may, within fourteen days after receipt of the same, give notice thereof to the Minister. If the miners object to the special rules, they shall give notice of such objection to the mining manager and the Minister within one month after such rules are hung up as aforesaid; or if they object to the alterations proposed by the Minister, they shall give him notice of such objection within fourteen days after the receipt thereof; and thereupon the parties interested may concur in the appointment of a single arbitrator, or failing such concurrence, each party, on the request of the other, shall appoint an arbitrator who is not interested or employed in such colliery (and if there are only two arbitrators, they shall before entering upon the reference, appoint by writing under their hand an umpire), to determine the matter in difference, and to decide what special rules shall be established in the colliery.

And in the event of any dispute arising between the parties aforesaid as to such rules, or between the parties and any inspector as

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to the administration of the rules, or upon any matter within the scope of this Act (not being an offence against this Act), and not otherwise provided for, the matter in dispute may be referred to arbitration in manner aforesaid. And the determination of such arbitrators or arbitrators and umpire or of the majority thereof (if there be more than two), shall be final, and the award may be made a rule of the Supreme Court.

**45.** FOR the purpose of making known the special rules to all persons employed in or about a colliery the mining manager thereof shall cause a printed copy to be supplied to every person before he is employed in or about such colliery.

Promulgation of special rules.

**46.** THE provisions contained in the forty-fourth and forty-fifth sections of this Act shall apply to and be followed in respect of any proposed amendments of such special rules.

Amendment of special rules.

**47.** THE costs of every arbitration under this Act shall be in the discretion of the arbitrators.

Cost of arbitrations to be in discretion of arbitrator.

**48.** A COPY of the special rules purporting to be certified under the hand of the Minister shall, upon production, without further proof, be evidence of such special rules, and of their being duly made under this Act.

Certified copy of special rules to be evidence.

**49.** WHERE the amount of wages payable to any persons employed in a colliery depends on the amount of mineral gotten by them, such persons shall be paid according to the weight of the mineral gotten by them; and the owner of every colliery shall at his own cost provide and maintain all necessary apparatus for truly weighing such mineral, and shall be liable to a penalty of Ten pounds for every week during which such apparatus is not so provided and maintained.

As to payment by weight of persons employed in collieries.

Provided that nothing herein contained shall preclude the owner or mining manager of the colliery from agreeing with the persons employed therein that deductions shall be made in respect of the stones, or materials other than mineral contracted to be gotten, which are sent out of the colliery with such mineral, or in respect of the tubs, baskets, or hutches being improperly filled by the getter of the mineral, or his drawer, or by the person immediately employed by him; such deductions being determined by the banksman or weigher, and check-weigher (if there be one) or in case of difference, by a third party to be mutually agreed on by the manager on the one hand and the persons employed in the colliery on the other.

Where it is proved to the satisfaction of the Minister that, by reason of exigencies existing in the case of a colliery to which the foregoing provision applies, it is expedient that the persons therein employed should not be paid by the weight of the mineral gotten by

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them, or that the beginning of payment by weight should be postponed, the Minister may, if he thinks fit, by order, exempt such colliery from the provisions of this section, either with or without conditions, or postpone in such colliery the beginning of such payment by weight.

Appointment and removal of check-weigher on part of men.

**50.** THE persons employed in a colliery to which this Act applies, and paid according to the weight of the mineral gotten by them, may, at their own cost, station a person (in this Act referred to as a "check-weigher") at the place appointed for the weighing of such mineral, in order to take an account of the weight thereof, and if reasonable facilities are not afforded to him for taking such account, the mining manager of the colliery shall be guilty of an offence against this Act.

The check-weigher shall not be authorised in any way to impede or interrupt the working of the colliery or to interfere with the weighing, but shall be authorised only to take such account as aforesaid, and his absence shall not be a reason for interrupting or delaying such weighing.

If a check-weigher impedes or interrupts the working of the colliery, or interferes with the weighing, or otherwise misconducts himself, the mining manager may complain to the nearest Court of Petty Sessions, which, if it thinks fit, may call upon the check-weigher to show cause against his removal.

The Court shall hear the parties, and if it thinks that sufficient ground is shown to justify the removal of the check-weigher, make a summary order for his removal, and he shall thereupon be removed, but without prejudice to the stationing of another check-weigher in his place. The Court may, in every case, make such order as to the cost of the proceedings as it thinks just.

Penalties for certain offences.

**51.** IF, through the default of the mining manager of a colliery special rules are not established for the same, or the general or special rules are not promulgated, as hereinbefore provided; or if any of such rules are neglected or wilfully violated by the mining manager of such colliery, he shall be liable to a penalty not exceeding Twenty pounds, and to a further penalty of One pound for every day during which the offence continued after notice thereof in writing is given by the Minister or inspector; and in default of payment of any such penalty to be imprisoned for any period not exceeding one month. And any other person employed in or about a colliery who neglects or wilfully violates any of the special rules established for such colliery shall, for every such offence, be liable to a penalty not exceeding Five pounds, or in default of payment to be imprisoned for any period not exceeding one month. Every such offence and

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penalty may respectively be prosecuted and recovered in a summary way before two or more justices.

**52.** UPON the affidavit of any person taken before a Justice of the Peace, or Commissioner of the Supreme Court for taking affidavits, claiming to be legally or equitably interested in a colliery, or in any land adjoining or near to another colliery, that the owner of such last-mentioned colliery is or is by the person making such affidavit, believed to be encroaching upon the first-mentioned colliery or land, the Minister may, by writing under his hand, authorise the inspector, together with a mining surveyor or experienced miner, who is not ordinarily employed by any of the persons interested in the property alleged to be encroached upon, to enter upon the last-mentioned colliery or land for the purpose of ascertaining whether such encroachment has been made, and if so, the extent thereof.

Entry on adjoining mine, &c., to ascertain whether owner, &c., is encroaching.

Before granting such authority the Minister shall require the person making or lodging the affidavit to deposit a sum of money, not exceeding One hundred pounds, sufficient to cover the cost of such inspection.

What may be done under such authority.

The persons so authorised may thereupon enter on the colliery or land described in such order, and descend any shaft, and use the engines and other machinery ordinarily employed for that purpose, and make such plans and sections of the colliery or land entered upon, and of any drives or other works therein, as are necessary for ascertaining the extent of the encroachment (if any). And the mining manager of the colliery to be entered upon shall render all necessary assistance to the persons so authorised.

Every such inspector, surveyor, or miner shall, before entering on such colliery or land, make a statutory declaration before some person authorised to take the same, that he will not (except as a witness in a court of justice), without the consent in writing of the owner of the colliery or land to be entered upon, divulge, or cause to be divulged to any person whomsoever any information obtained upon or by such entry, save only as to whether such owner is encroaching on such first-mentioned colliery or land.

Prior statutory declaration required.

Any person who acts contrary to such declaration, and any mining manager who refuses the assistance necessary to enable the persons authorised by the Minister to descend the shaft, or enter and examine the colliery, shall forfeit and pay a sum not exceeding One hundred pounds.

Penalty.

Provided that the Minister may out of the sum deposited, as aforesaid, defray the cost of such inspection, and if the mining manager renders the assistance necessary for the purposes aforesaid, and if there is no encroachment, may out of such sum award to the

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owner compensation for any loss or expense to which he is put by reason of such inspection.

Mining inspector to  
make record of  
inspection.

**53.** WHENEVER any mining inspector shall have inspected any mine, he shall enter in the book which by Section twenty-two of this Act is to be kept on the mine for that purpose, his opinion derived from such inspection, of the actual condition of the mine and machinery thereon at the time of such inspection.

Materials and men  
not to be raised or  
lowered at the same  
time.

**54.** EXCEPT when repairing the shaft, no timber, iron, rails, sprags, or other material shall be placed in any bucket, skip, or other appliance in which men are being raised or lowered in any mine.

In the name and on behalf of the Queen I hereby assent  
to this Act.

ALEX. C. ONSLOW, Administrator.