

Approved for Reprint, 8th January, 1979.

WESTERN AUSTRALIA.

COAL MINES REGULATION.

10° and 11° Geo. VI., No. LXIII.

No. 63 of 1946.¹

[As amended by Acts:

- No. 26 of 1951 assented to 12th December, 1951;
- No. 21 of 1962 assented to 1st October, 1962;
- No. 14 of 1965² assented to 1st December, 1965;
- No. 113 of 1965³ assented to 21st December, 1965;
- No. 94 of 1972⁴ assented to 4th December, 1972;
- No. 137 of 1976⁵ assented to 13th December, 1976,

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the law relating to the inspection and regulation of Coal Mines and for other relative purposes.

[Assented to 24th January, 1947.]

BE it enacted—

1. This Act may be cited as the *Coal Mines Regulation Act, 1946-1976*, and shall come into operation on a date to be fixed by proclamation.¹

Short title.
Amended by
No. 137 of
1976, s. 1.

2. The Acts specified in the Schedule hereto are hereby repealed. Repeal.

¹ Came into operation on 1st October, 1947. See *Gazette of 19/9/47*, p. 1763.

² Came into operation on 8th November, 1965. See *Gazette of 5/11/65*, p. 3806.

³ Decimal Currency Act, 1965, s. 4 (1). Came into operation 14/2/66.

⁴ Metric Conversion Act, 1972, relevant amendments effective 1/1/73. See *Gazette 29/12/72*, p. 4811.

⁵ Came into operation on 24th July, 1978. See *Gazette of 14/7/78*, p. 2404.

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Divisions.

3. This Act is divided into divisions as follows:—

*Division 1—Preliminary, ss. 1-5.**Division 2—Inspectors, ss. 6-18.**Division 3—Management, ss. 19-22.**Division 4—Accidents, s. 23.**Division 5—Employment, ss. 24-33.**Division 6—Sunday Labour—s. 34.**Division 7—Plans, ss. 35-37.**Division 8—Accident Relief and Superannuation, s. 38.**Division 9—Miscellaneous, ss. 39-69.**Division 1—Preliminary.*Application
of Act.See No. 25 of
1902, s. 3 as
amended by
No. 36 of
1926, s. 2.

4. This Act shall apply to mines of coal, mines of shale, and mines of fire-clay; and in this Act, unless the context otherwise requires, the word "mine" or "mining" means a mine or mining to which this Act applies.

Interpreta-
tion of terms.See No. 25 of
1902, s. 4 as
amended by
No. 36 of
1926, s. 3.Amended by
No. 26 of
1951, s. 3;
No. 137 of
1976, s. 3.

5. In this Act, unless the context otherwise requires—

"agent" in relation to—

- (a) a mine in which men are employed underground—means a person who is the holder of a first class mine manager's certificate of competency having control of a mine or group of mines who directs the policy and acts as the representative of the owner with respect to a mine or group of mines; and

(b) an open cut—means a person who is the holder of a first class mine manager's certificate of competency or of an open cut mine manager's certificate of competency having control of an open cut or group of open cuts who directs the policy and acts as the representative of the owner with respect to an open cut or a group of open cuts;

“boy” means a male under the age of nineteen years;

“deputy” means a person appointed to the position of deputy pursuant to section twenty A of this Act;

“inspector” means inspector of mines or State Coal Mining Engineer under this Act;

“manager” means the manager or mining manager having the control and daily supervision of the mine;

“mine” includes every open cut, every shaft in the course of being sunk, every tunnel, every level and inclined plane in the course of being driven; and every shaft, level, plane, working place, tramway and siding both below ground and above ground, in and adjacent to and belonging to a coal mine;

“miner” means any person employed in or about a coal mine;

“Minister” means the Minister for Mines;

“open cut” means a mine that is formed by an excavation in the ground and that has no overlying cover of earth;

“owner” when used in relation to any mine, means any person or persons or body corporate who is the immediate proprietor, or lessee, or occupier of any mine or of any

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part thereof, or any agent, or superintendent, or trustee, or trustees acting on behalf of the owner, and does not include a person or body corporate who 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; but any contractor for the working of any mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability;

“plan” includes a correct copy or tracing of any original plan;

“registrar” means Registrar of a Mining District;

“regulations” means regulations under this Act;

“shaft” means a vertical or inclined opening used or likely to be used for the purpose of mining or prospecting or for gaining access to the underground workings of a mine or for the ventilation thereof and leading from the natural surface of the earth underground or from one place underground to another place underground;

“superintendent” has the same meaning as “agent”;

“the Board” means the Board of Examiners appointed under section forty of this Act;

“underground”, in relation to a mine or mining, means a working which is beneath the natural surface of the earth and is covered by natural rock, shale, coal or earth or by timber or other material and the term includes any shaft that exceeds two metres;

“under manager” means a person appointed to be under manager pursuant to subsection (5) of section nineteen of this Act;

“union” means the Coal Miners Industrial Union of Workers of Western Australia and any other industrial union or association which has members employed in the coal industry.

5A. (1) The Governor may appoint a person to the office of State Coal Mining Engineer.

State Coal Mining Engineer. Added by No. 26 of 1951, s. 4.

(2) The office shall be subject to the provisions of the Public Service Act, 1904-1950.¹

(3) The duties of the office of State Coal Mining Engineer shall be as prescribed by this Act and the regulations and general rules.

Division 2.—Inspectors.

6. The Governor may appoint fit and proper persons to be inspectors of mines.

Appointment of inspectors of mines. See No. 44 of 1928, s. 3.

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

7. Every inspector of mines shall be under the control of the State Coal Mining Engineer.

Control of inspectors. Amended by No. 26 of 1951, s. 5.

8. Inspectors of mines shall be of three classes, namely—

Classification of inspectors. Ibid. s. 5. Amended by No. 26 of 1951, s. 6; No. 137 of 1976, s. 4.

- (a) departmental inspectors, who shall have the full powers of inspectors under this Act; but every such inspector, prior to being appointed, shall satisfy the Minister that he has had not less than five years' practical experience in general underground mining work, and is the holder of a first class mine manager's certificate of competency under this Act, and that he has passed an examination prescribed or approved by the Minister in accordance with the regulations;

¹ Now Public Service Act, 1904-1977.

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- (b) special inspectors, who shall be appointed to make special inspections, inquiries and investigations on matters within the scope of this Act, requiring special technical or scientific training or knowledge, as the Minister may from time to time direct; and
- (c) workmen's inspectors, who shall in accordance with the regulations be elected by the majority of persons *bona fide* employed in the mines in a mineral field, and subject to approval of the Minister; but a person is not eligible for appointment as a workmen's inspector unless he is—
 - (a) the holder of a certificate of service issued under this Act as in force immediately before the coming into operation of section twelve of the Coal Mines Regulation Act Amendment Act, 1976; or
 - (b) the holder of a second class mine manager's certificate of competency or a third class or deputy's certificate of competency.

Conditions of
appointment.
Ibid. s. 6.

9. Departmental inspectors shall be under the Public Service Act, 1904-1935,¹ but special and workmen's inspectors shall not by reason of their appointment as such be deemed to be subject to the provisions of the said Act.

No departmental, special or workmen's inspector shall hold any interest in any coal mine in the State, without the permission in writing of the Minister.

Conditions of
appointment
of special and
workmen's
inspectors.
Ibid. s. 7.

10. All the terms and conditions of appointment of special inspectors and workmen's inspectors, the mines in which they may exercise their powers and the number of days to be given by them to the duties of their offices, shall be as may be fixed from time to time by the Minister, subject to the regulations.

¹ Now Public Service Act, 1904-1977.

11. Workmen's inspectors shall be appointed for a term not to exceed three years, but they shall be eligible for re-appointment.

Terms of
appointment
of workmen's
inspectors.
Ibid. s. 8.

A workmen's inspector may be removed from his office by the Minister for any cause which the Minister may, in his discretion, deem sufficient.

12. (1) A departmental or special inspector shall have power to do all or any of the following things, namely—

Powers of
inspectors.
Ibid. s. 9.
Amended by
No. 26 of
1951, s. 7.

- (a) to make examination and inquiry to ascertain whether the provisions of this Act affecting any mine are complied with;
- (b) to enter, inspect, and examine any mine and every part thereof at all reasonable times by day and night, when there is any person in the mine, with such assistants as he may deem necessary, but so as not unnecessarily to impede or obstruct the working of the mine;
- (c) to examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and of all matters or things connected with or relating to the safety or well-being of the persons or animals employed therein or in any mines contiguous thereto, and for the purpose of such examination or inquiry the inspector may require the attendance of a mine official or employee, for which purpose the manager shall appoint an official who may be himself or appoint an employee and such official or employee shall attend accordingly;
- (d) to initiate and conduct prosecutions against persons offending against the provisions of this Act;
- (e) to obtain written statements from witnesses, and to appear at inquiries held respecting mining accidents, and at inquests, and to call and examine witnesses, and to cross-examine witnesses;

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- (f) to exercise generally such other powers as are in his discretion necessary for carrying this Act into effect.

(2) A workmen's inspector shall have power, with respect to the mines to which his appointment relates, to do all or any of the following things, namely—

- (a) to make examination and inquiry to ascertain whether the provisions of this Act affecting any mine are complied with;
- (b) to enter, inspect and examine any mine and every part thereof at all reasonable times by day and night, when there is any person in the mine, with such assistants approved by a departmental inspector, as he may deem necessary, but so as not unnecessarily to impede or obstruct the working of the mine;
- (c) to examine into and make inquiry respecting the state and condition of any mine or any part thereof, and of all matters or things connected with or relating to the safety or well-being of the persons or animals employed therein or in any mine contiguous thereto, and for the purpose of such examination or inquiry the inspector may require the attendance of a mine official or employee, for which purpose the manager shall appoint an official who may be himself or appoint an employee and such official or employee shall attend accordingly;
- (d) with the authority of the State Coal Mining Engineer, but not otherwise, to initiate and conduct prosecutions against persons offending against the provisions of this Act;
- (e) where a departmental inspector is not available, or with the authority of a departmental inspector, to obtain written statements from witnesses, and to appear at

inquiries held respecting mining accidents, and at inquests, and to call and examine witnesses, and to cross-examine witnesses.

(3) (a) Whenever any departmental inspector shall have inspected any mine, he shall enter in a book to be kept on that mine for the purpose by the manager, his opinion, derived from such inspection, of the actual conditions of health and safety therein at the time of such inspection.

(b) Where a workmen's inspector inspects a mine he shall make a full and true report in his own handwriting of the result of the inspection in triplicate in a book which the manager shall cause to be kept at the office of the mine for that purpose and called the record book. The manager shall retain the original copy of the report in the record book and shall immediately on receiving the report cause to be posted one copy in a conspicuous position near the entrance to the mine workings and send one copy to the senior inspector of mines.

(4) The departmental inspector shall keep the working of the coal seams under observation and should he observe that the coal seams are being worked in such a manner that the wastage of coal is not being minimised, he shall submit a written report of the circumstances to the State Coal Mining Engineer.

13. No person shall be qualified to be a departmental inspector who at the same time actually practices, either alone or in partnership with any person, as a land agent, mining engineer, mining manager, viewer, agent or valuer of mines, or acts as an arbitrator in any differences or disputes arising between owners, agents, or managers of mines, or is otherwise employed in or is the owner or part owner of or interested as a shareholder in any mine within the State.

Disqualification of departmental inspectors.
Ibid. s. 10.

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Inspector not to divulge information. *Ibid.* s. 11. Amended by No. 26 of 1951, s. 8.

14. No departmental or workmen's inspector shall, for any purpose whatever, make a report on any mine or mining property or prospect, except to the extent required by the provisions of section twelve of this Act or an official report to his superior officer or the Minister, and in the case of a workmen's inspector, to his union, nor shall he make public or reveal to any person any knowledge or information obtained by him in the exercise of his official duties, except as aforesaid or when giving evidence in a court of justice.

Offences. *Ibid.* s. 12. Amended by No. 26 of 1951, s. 9; No. 113 of 1965, s. 4 (1).

15. (1) Any person who acts as a departmental inspector when disqualified as aforesaid, and any inspector who contravenes any of the provisions of the last preceding section shall be liable to a penalty not exceeding two hundred dollars, or to imprisonment, with or without hard labour, for a term not exceeding twelve months.

(2) Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner or manager of a mine who refuses or neglects to furnish to the inspector the means reasonably necessary for making any entry, inspection, examination or inquiry under this Act, in relation to the mine, shall be guilty of an offence against this Act.

Mineral field defined. *Ibid.* s. 13.

16. In the preceding sections the words "mineral field" mean a mineral field constituted and proclaimed under the Mining Act, 1904, in which coal mining leases are situated, and include the Collie River Coal Mining District which, by virtue of section fourteen of the said Act, is deemed to have been constituted and proclaimed a mineral field under that Act.

Notice by inspector of causes of danger not expressly provided against. No. 25 of 1902, s. 45. Amended by No. 26 of 1951, s. 10.

17. (1) If in any respect which is not provided against by any express provision of this Act or by any special rule, any inspector finds any mine or any part thereof, or the machinery and plant in connection therewith, or any matter, thing or practice in or connected with any such mine, or with the control, management or direction thereof by the manager, to be dangerous or defective, so as in his

opinion to threaten or tend to the bodily injury of any person, he shall order the manager to at once do such works as will in his opinion remove such danger or defect; he shall also give notice in writing thereof to the owner, superintendent and manager of the mine and union concerned, and shall state in the notice the particulars in which he considers the mine or any part thereof, or the machinery and plant in connection therewith, or any matter, thing or practice to be dangerous or defective, and require the same to be remedied; and unless the same be forthwith remedied shall also report the same to the Minister.

(2) If the owner or manager of the mine objects to remedy the matter complained of in the notice, he may forthwith, on receipt of the notice, send his objection in writing, stating the grounds thereof, to the Minister, who may finally and conclusively determine such matter as he may think fit, or he shall decide that the matter shall be determined by arbitration in the manner provided in this Act, and the date of such decision shall be taken to be the date of the reference.

(3) If the owner or manager fails, when no objection is sent as aforesaid, to comply with the requisitions of the notice within ten days after the expiration of the time for objection, or when there has been a determination by the Minister or an arbitration to comply therewith within the time fixed by the Minister or the award, he shall be guilty of an offence against this Act, and the notice and determination shall respectively be deemed to be written notice of the offence.

(4) In any proceeding for an offence, the court, if satisfied that the owner or manager has taken active measures for complying with the notice or determination, but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and if the works are completed within a reasonable time, no penalty shall be inflicted, but costs may be awarded.

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(5) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages, penalty, or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

Special inspections and publication of reports. Amended by No. 26 of 1951, s. 11.

18. (1) The Minister may at any time authorise any officer of his department or any other person to enter and if that officer or other person is qualified to do so to inspect any mine, but so as not unnecessarily to impede or obstruct the working of the mine.

(2) The Minister may cause any special report of an inspector or of any officer of his department or person authorised under subsection (1) or any report of a court under this Act to be made public, at such time and in such manner as he may think fit.

Division 3—Management.

Appointment of manager of mine. No. 25 of 1902, s. 21; as amended by No. 25 of 1915, s. 2, and No. 36 of 1926, s. 12. Amended by No. 26 of 1951, s. 12; No. 113 of 1965, s. 4 (1); No. 137 of 1976, s. 5.

19. (1) Subject to this Act, the owner of a mine shall appoint a person to be manager of the mine and shall send written notice stating the name and address of the person so appointed to the Minister and the departmental inspector of the district in which the mine is situate.

(2) The owner of a mine shall not appoint a person to be the manager—

- (a) of a mine in which men are employed underground, unless that person is the holder of a first class mine manager's certificate of competency;
- (b) of an open cut, unless that person is the holder of a first class mine manager's certificate of competency or an open cut mine manager's certificate of competency.

(3) No person shall be appointed to be the manager of more than one mine, but where a person is so appointed as the manager, nothing in this subsection prevents another person acting as superintendent of two or more mines if—

- (a) being the holder of a first class mine manager's certificate of competency, he acts as superintendent of a mine in which men are employed underground; or
- (b) being the holder of a first class mine manager's certificate of competency or an open cut mine manager's certificate of competency, he acts as superintendent of an open cut.

(4) If any mine is worked for more than fourteen days without there being such a manager for the mine as is required by this section, the owner of the mine shall, on conviction, be liable to a penalty not exceeding one hundred dollars, and to a further penalty not exceeding ten dollars for every day during which the mine is so worked after any conviction.

(4a) [*Added by No. 26 of 1951, s. 12. Repealed by No. 137 of 1976, s. 5.*]

(5) The owner of a mine shall, in respect of every mine—

- (a) where the manager is absent on leave or by reason of sickness, appoint a person to be under manager to perform the duties of manager; and
- (b) where the under manager is absent on leave or by reason of sickness, appoint a person to perform the duties of under manager,

and every person performing the duties of a manager or under manager, as the case may be, shall have the same responsibility and shall be subject to the same liability as the person whose duties he is performing.

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(6) A person shall not be appointed as an under manager or to perform the duties of under manager—

- (a) in a mine in which men are employed underground, unless he is the holder of a first class mine manager's certificate of competency or a second class mine manager's certificate of competency; or
- (b) in an open cut, unless he is the holder of one of the certificates referred to in paragraph (a) of this subsection or of an open cut mine manager's certificate of competency.

(7) The owner of a mine shall, within fourteen days of the appointment, send written notice stating the name and address of every person appointed as an under manager or to perform the duties of under manager to the departmental inspector of the district in which the mine is situate.

Daily supervision of mine by manager. Repealed and re-enacted by No. 137 of 1976, s. 6

20. (1) The manager of a mine shall have the control, management and direction of the mine and all the machinery and plant used in connection therewith.

(2) In every mine daily personal supervision shall be exercised either by the manager or by an under manager.

Appointment, qualifications and duties of deputies. Added by No. 137 of 1976, s. 7.

20A. (1) Subject to this Act, the manager of a mine shall appoint in writing such number of deputies as are necessary for carrying out the duties of deputy prescribed by or under this Act.

(2) A person shall not be appointed or act as a deputy unless—

- (a) he has within the last preceding five years, obtained a certificate from a legally qualified medical practitioner to the effect that his eyesight and hearing will enable him to carry out the duties prescribed by or under this Act in relation to the position of

deputy in the type of mine to which he is to be appointed or in which he is so acting as deputy; and

(b) he is—

- (i) if he is appointed deputy in a mine employing men underground, the holder of a first class mine manager's certificate of competency, a second class mine manager's certificate of competency or a third class or deputy's certificate of competency; or
- (ii) if he is appointed deputy in an open cut, the holder of one of the certificates of competency referred to in subparagraph (i) of this paragraph or of an open cut mine manager's certificate of competency or a deputy's (open cut) certificate of competency.

(3) The costs incurred in obtaining the certificate referred to in paragraph (a) of subsection (2) of this section shall be paid by the owner.

(4) The certificate referred to in paragraph (a) of subsection (2) of this section shall be retained by the owner of the mine at the office of the mine and shall be produced on demand made by an inspector.

(5) For the purposes of this Act, a person appointed as deputy in a mine in which men are employed underground has the following statutory duties, namely—

- (a) to make inspections and examinations for the presence of gas;
- (b) to ascertain the sufficiency of ventilation;
- (c) to ascertain the state of the roof and sides;
- (d) to supervise the general duties of shotfirers;
- (e) to take such other precautions as are requisite for the safety of the mine and the persons under his charge; and
- (f) to check and record the number of persons under his charge.

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(6) For the purposes of this Act, a person appointed as deputy in an open cut has the following statutory duties, namely—

- (a) to examine the state of the floor, sides, walls, roads and waste dumps;
- (b) to take such other precautions as are requisite for the safety of the open cut and of the persons under his charge;
- (c) to supervise the general duties of shotfirers; and
- (d) to check and record the number of persons under his charge.

(7) A person who is appointed deputy may be required to perform other duties that are relevant to his position in addition to the statutory duties prescribed by or under this Act, but where a departmental inspector is satisfied that the performance of those other duties prevents a deputy from carrying out his statutory duties the departmental inspector shall by written notice to the manager order that the deputy be confined to carrying out only his statutory duties or only his statutory duties and such other duties as the departmental inspector specifies in the order.

(8) Where a departmental inspector has given an order pursuant to subsection (7) of this section a manager of a mine shall not require a deputy to carry out any duties other than those specified in the order.

21. (1) The manager of every mine shall enforce the observance of 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 or, in the absence of the inspector, to the 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 non-compliance 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
responsi-
bility of
super-
intendent
and
manager.
No. 25 of
1902, s. 39.
Amended by
No. 26 of
1951, s. 14.

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

(3) 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 or, in the absence of the inspector, to the registrar immediately after it came to his knowledge.

(4) Every superintendent and manager who fails to act in compliance with this section shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent the offence by publishing and, to the best of his powers, enforcing the observance of those provisions.

22. In any of the following cases, namely—

- (a) where any working is commenced for the purpose of opening a new shaft or a seam of any mine;
- (b) where a shaft or seam of any mine is abandoned or the working thereof discontinued, or where a part of the seam is sealed;
- (c) where the working of a shaft or a seam or a sealed area of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or
- (d) where any change occurs in the name of any mine or in the name of the owner or manager of any mine or of any company which is the owner of a mine,

Notice to be given of opening and abandonment of mine.
Ibid. s. 40.
Amended by No. 26 of 1951, s. 15.

the owner or manager of the mine shall give notice thereof to the inspector of the district within two weeks prior to the commencement, abandonment or discontinuance, recommencement or change; and if such notice is not given, the owner and manager shall each be guilty of an offence against this Act.

*Coal Mines Regulation.**Division 4—Accidents.*

Notice of accident to be given to inspector of mines.
Ibid. s. 47.
 Amended by No. 26 of 1951, s. 16; No. 113 of 1965, s. 4 (1).

23. (1) Every workman employed in or about a mine, personally knowing of an accident which shall have occurred in or about the mine shall, as soon as possible, report to the manager or overman, and any workman who fails immediately to report the same shall be deemed guilty of an offence against this Act, and the mining manager shall forthwith, after the occurrence of any serious accident in or upon any mine attended with or without serious injury to any person, give notice thereof to the inspector, or in the absence of the inspector, to the registrar; and any mining manager who omits to give such notice shall be guilty of an offence against this Act. Upon receipt of any such notice the inspector, or in his absence any person appointed by the registrar, shall proceed to the scene of such accident, examine the place where such accident has occurred, take down the statement of any witness of such accident, or of any person who can afford any evidence as to the cause thereof, and thereupon forward to the registrar a full report.

Inquiry on accidents.

(2) The registrar shall, if he thinks it necessary hold an inquiry into the nature and cause of the accident, and shall forward to the Minister a copy of the evidence, together with his report on the inquiry, and the registrar shall have—

- (a) power to require by summons signed by himself the attendance of all such persons as he thinks fit to call before him and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as he thinks fit to make;
- (b) power to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

(3) (a) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses in a case at the petty sessions.

(b) Any person who without reasonable excuse, proof whereof shall lie on him, either fails after having had the conduct money to which he is entitled tendered to him to comply with any summons or requisition of a court holding an investigation under this section, or prevents or impedes the court in the execution of its duty, shall for every such offence be liable to a penalty not exceeding twenty dollars, and in the case of a failure to comply with a requisition for making any answer or return or producing any book, paper or document, shall be liable to a penalty not exceeding twenty dollars for every day that such failure continues.

(c) The place in which an accident occasioning serious 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 two mine workers engaged on the mine, or if the registrar so directs, by two competent persons to be appointed by him unless such non-interference unduly impedes the working of the mine.

Division 5—Employment.

Restriction on Employment.

24. (1) No boy under the age which for the time being is the maximum age for compulsory attendance at a Government or efficient school as fixed by the Education Act, 1930-1943,¹ or by any proclamation made by the Governor thereunder and no female shall be employed in or about any mine.

Who shall not be employed in mines. No. 25 of 1902, s. 5, as amended by No. 36 of 1926, s. 4. Amended by No. 26 of 1951, s. 17; No. 137 of 1976, s. 8.

(2) No boy shall be employed in caging or uncaging trucks or skips in or at any shaft.

(3) No boy shall be employed as a lander or brace-man in or at any shaft.

¹ Now Education Act, 1928-1977.

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Hours of
work.

(4) No person shall be employed for more than forty-two hours in any week as a lander or braceman, nor more than seven hours in any twenty-four hours, except in cases of emergency.

(4a) No person unable readily and intelligibly to speak the English language shall be employed underground in a mine, but in cases of hardship the departmental inspector may grant an exemption from the provisions of this subsection.

(5) No person shall be deemed to be guilty of an offence against this Act for a contravention of subsection (4) of this section, or of so much of the next following section' as relates to the time for which persons shall not be employed underground, if he proves that there were special circumstances to render such contravention necessary for the proper and safe working of the mine, and that such contravention was not injurious to the workmen employed in the mine.

(6) An extract of birth entry of every boy employed in a mine shall be produced to the owner or manager at the time of his employment and shall be retained at the mine during the course of his employment.

Register to
be kept of
boys
employed.
No. 25 of
1902, s. 9.

25. The owner or manager of every mine shall keep, in the office at the mine, a register, and shall cause to be entered in that register, in such form as the regulations prescribe or sanction, the name, age, residence, and the date of first employment of all boys over fourteen years of age employed in the mine below ground, and of all boys employed above ground in connection with the mine, and shall, on request, produce the register to any inspector under this Act.

Employment
of boys
prohibited.
Added by
No. 26 of
1951, s. 18.

25A. No boy shall be employed in or about a mine between the hours of 10 p.m. and 8 a.m.

¹. In section 5 of Act No. 25 of 1902 this referred to section 6 of that Act—now section 27 of this Act.

26. (1) If any person knowingly contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect to the employment of boys, or to the register of boys, he shall be guilty of an offence against this Act.

Penalty for employment of persons in contravention of Act. No. 25 of 1902, s. 10. Amended by No. 26 of 1951, s. 19.

(2) In the event of any such contravention or non-compliance by any person whomsoever, the owner or manager of the mine shall each be 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 provisions of this Act to prevent the contravention or non-compliance.

27. (1) No person shall be employed underground in any mine for more than seven consecutive hours at any time, or for more than forty-two hours in any week except in cases of emergency.

Persons not to be employed underground more than seven hours on any day. No. 25 of 1902, s. 6, as amended by No. 36 of 1926, s. 5. Amended by No. 137 of 1976, ss. 9 and 24.

(2) A person shall be deemed and is hereby held to be employed underground and in the service of the owner of a mine, within the meaning of this Act, from the time that he commences to descend a mine until he returns to the surface.

(3) The prohibition contained in this section shall not apply to the manager of a mine or to any under manager, deputy, engineer, mechanic, electrician or pumper.

28. (1) No person in charge of machinery on which steam, water, electricity or air, or any two or more of them are used as a motive power in connection with any mine, or for the treatment of the products of any mine, shall be employed for more than seven consecutive hours at any time, or for more than seven hours in any twenty-four hours. Provided that sinking pumps, borers, and coal cutting machines shall not be deemed to be machinery within the meaning of this subsection.

Regulation of employment of persons in charge of machinery, etc. No. 25 of 1902, s. 7, as amended by No. 36 of 1926, s. 6.

Coal Mines Regulation.

(2) Such period of seven hours shall be exclusive of any time occupied in raising steam, or in drawing fires and exhausting steam in connection with the machinery in charge of such person, and of any time in which such person is employed in case of breakage, emergency, or necessity.

Wages.

Prohibition of payment of wages at public houses, etc.
Ibid. s. 11.

29. (1) No wages shall be paid to any person employed in or about any mine at or within any public house or any place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or house of entertainment, or any office, garden, or place belonging or contiguous thereto or occupied therewith; and all wages shall be paid in cash.

(2) Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with this section, shall be guilty of an offence against this Act; and, in the event of any such contravention or non-compliance by any person whomsoever, the owner and manager of the mine shall each be 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 provisions of this section to prevent such contravention or non-compliance.

Payment of persons employed in mines by weight.
No. 25 of 1902, s. 12, as amended by No. 36 of 1926, s. 7.
Amended by No. 94 of 1972, s. 4.

30. (1) Where the amount of wages paid to any of the persons employed in a mine depends upon the amount of mineral produced or won by them, those persons shall be paid according to the actual weight produced or won by them of the said mineral; and the mineral produced or won by them shall be truly weighed at a place as near to the pit as is reasonably practicable before being screened and cleaned; but such place shall not be more than 200 metres distant from the pit mouth except when otherwise sanctioned by the Minister.

Nothing in this section shall preclude the owner or manager of the mine from agreeing with the persons employed in the mine that deductions shall

be made in respect of stones or substances other than the mineral contracted to be produced or won, which shall be sent out of the mine with the said mineral, or in respect of any tubs or skips being improperly filled, in those cases where they are filled by the person by whom the mineral was produced or won or his drawer, or by the person immediately employed by him; such deductions being determined in such special mode as may be agreed upon between the owner and manager of the mine on the one hand and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner or manager, or (if any check-weigher is stationed for this purpose as hereinafter mentioned) by such person and such check-weigher, or, in the case of difference, by a third person to be mutually agreed on by the owner or manager of the mine on the one hand and the persons employed in the mine on the other, or, in default of agreement, appointed by a stipendiary magistrate within the jurisdiction of which any shaft of the mine is situate.

(2) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner or manager of the mine shall each be 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 provisions of this section to prevent the contravention or non-compliance. Penalty.

(3) Nothing in this Act shall be held to authorise or give any power to any owner or manager of a mine to pay miners by the method known as the "standard weight" system, and from and after the commencement of this Act that system shall be and is hereby abolished. "Standard weight" system illegal.

(4) Nothing in this Act shall prevent any company from making an agreement with its workmen for the system known as the "average weight" being accepted until such time as machinery can be procured to weigh the whole of the coal; such time "Average weight" system not illegal.

shall not exceed a period of twelve months after the commencement of this Act for companies then at work; and all companies starting operations after such commencement shall be allowed a period not exceeding twelve months from the date of the starting of such operations to procure the necessary machinery.

Power to
Minister to
sanction
other
methods
of payment.

(5) In the case of any mine or class of mines employing not more than twenty persons underground, where it is proved to the satisfaction of the Minister to be expedient that the persons employed therein should, upon the joint representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this section, the Minister may, if he thinks fit, by order under his hand allow the same, either without conditions or during the time and on the conditions specified in the order.

Appointment
on part of
men and
removal of
check-
weigher.
No. 25 of
1902, s. 13.

31. (1) The persons who are employed in a mine and are paid according to the weight of the mineral produced or won by them may, at their own cost, station a person (in this Act referred to as a "check-weigher") at each place appointed for the weighing of the mineral, and at each place appointed for determining the deductions, in order that he may, on behalf of the persons by whom he is so stationed, take a correct account of the weight of the mineral or determine correctly the deductions, as the case may be.

(2) A check-weigher shall have every facility afforded him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the taring of tubs, skips and trams where necessary (and including also the continuous weighing of coal); and if at any time proper facilities are not afforded to a check-weigher as required by this section, the manager of the mine shall be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to enforce, to the best of his power, the requirements of this section.

(3) A check-weigher shall not be authorised in any way to impede or interrupt the working of the mine, or to interfere with the weighing, or with any of the workmen, or with the management of the mine; but shall be authorised only to fulfil the duties in the two preceding subsections mentioned, and the absence of a check-weigher from the place at which he is stationed shall not be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner or manager, unless the absent check-weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with: Provided always, that nothing in this section shall prevent a check-weigher giving to any workman an account of the mineral contracted to be produced or won by him, or information with respect to the weighing or the weighing machine, or the taring of the tubs or trams, or with respect to the deductions, or any other matter within the scope of his duties as check-weigher; so always, nevertheless, that the working of the mine be not interrupted or impeded.

(4) If the owner or manager of the mine desires the removal of a check-weigher on the ground that the check-weigher has impeded or interrupted the working of the mine, or interfered with the weighing or with any of the workmen or with the management of the mine, or has, at the mine, to the detriment of the owner or manager, done anything beyond taking such account determining such deductions or giving such information as aforesaid, the owner or manager may complain to the nearest court of petty sessions, who, if of the opinion that the owner or manager shows sufficient *prima facie* ground for the removal of the check-weigher, shall call on the check-weigher to show cause against his removal.

(5) On the hearing of the case, the court shall hear the parties, and if the court thinks that, at the hearing, sufficient ground is shown by the owner or manager to justify the removal of the check-weigher, shall make a summary order for his removal, and

Coal Mines Regulation.

the check-weigher shall thereupon be removed, but without prejudice to the stationing of another check-weigher in his place.

(6) The court may, in every case, make such order as to the costs of the proceedings as the court may think just.

(7) If in pursuance of any order of exemption made by the Minister, the persons employed in a mine are paid by the measure or gauge of the material produced or won by them, the provisions of this Act shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly.

(8) If the miners consider that the person appointed by the owner or manager improperly interferes with or alters the weighing machine or the tare in order to prevent a correct account being taken of the weighing and taring, they may complain to the owner or manager, and, if the owner or manager fails to remedy such complaint, the miners may then complain to the nearest court of petty sessions, who, if of opinion that the miners show sufficient *prima facie* ground for the removal of the weigher, shall call on the weigher to show cause against his removal.

(9) On the hearing of the case the court shall first hear the parties, and if the court thinks that, at the hearing, sufficient ground is shown by miners to justify the removal of the weigher, shall make a summary order for his removal, and the weigher shall thereupon be removed, but without prejudice to the stationing of another weigher in his place.

(10) The court may, in every case, make such order as to the cost of the proceedings as the court may think just.

32. Where a check-weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral produced or won by them, and has acted as such, he may recover from any person

for the time being employed at such mine, and so paid, his proportion of the check-weigher's wages or recompense, notwithstanding that any of the persons by whom the check-weigher was appointed may have left the mine or others have entered the same since the check-weigher's appointment, any rule of law or equity to the contrary notwithstanding.

33. (1) The Weights and Measures Act, 1915-1941,¹ shall apply to all weights, balances, scales, and weighing machines used at any time for determining the wages payable to any person employed in the mine according to the weight of the mineral contracted to be produced or won by him, in like manner as it applies to weights, balances, scales and weighing machines used for trade.

Application of Weights and Measures Act to weights, etc., used in mines.
No. 25 of 1902, s. 15, as amended by No. 36 of 1926, s. 8.

(2) An inspector of weights and measures shall be appointed under this Act, and shall once at least in every six months inspect and test, by standard weight, in manner directed by the Weights and Measures Act, 1915-1941,¹ the weights, balances, scales and weighing machines used or in the possession of any person for use as aforesaid at any mine within his district, and shall make such inspection and examination at any other time in any case where the employer or the accredited representative of any industrial union of workers who are engaged in the coal mining industry, and whose wages are determined on the basis of the tonnage of coal raised, has reasonable cause to believe that there is in use at the mine any false or unjust weight, balance, scale or weighing machine.

(3) The inspector of weights and measures shall also inspect and examine the measures and gauges in use at the mines within his district.

(4) The inspector of weights and measures may, for the purposes of this section, exercise at or in any mine, as respects all weights, measures, scales, balances and weighing machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise under the Weights and Measures Act, 1915-1941,¹ with respect

¹ Now Weights and Measures Act, 1915-1978.

Coal Mines Regulation.

to any weights, measures, scales, balances, beams or other weighing machines as herein mentioned; and the provisions of the said Act including the liabilities as to penalties, shall apply to such inspection.

(5) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, unduly impede or obstruct the working of the mine.

Division 6—Sunday Labour.

Prohibition
of Sunday
labour.
No. 36 of
1926, s. 19.
Amended by
No. 26 of
1951, s. 20;
No. 113 of
1965, s. 4 (1).

34. (1) Except as hereinafter mentioned, no person shall, directly or indirectly, employ any person for hire or reward to do any skilled or unskilled manual labour on a Sunday in or about any mine.

(2) Every person who employs a person to do work on a Sunday contrary to this Act, shall be liable to a penalty not exceeding ten dollars for every person so employed.

(3) This section shall not apply to the employment of persons engaged—

- (a) as watchmen or caretakers for the protection of property in or about a mine, or as grooms, groom's assistants or deputies; or
- (b) in repairing any shaft, furnace, engine boiler, or machinery so that the same may be in working order at the close of Sunday; or
- (c) in pumping or otherwise clearing a mine from water so that work may be resumed at the close of Sunday; or
- (d) in sinking any shaft in wet ground when in the opinion of the inspector the inflow of water is so serious as to necessitate continuous work; or
- (e) in doing work necessitated by an emergency which could not have been reasonably foreseen by the manager; or
- (f) in doing work authorised by an inspector of mines, as hereinafter provided.

(4) An inspector, on being satisfied that the employment of labour on a Sunday is necessary to avoid the risk of damage to the underground workings, machinery, or equipment of a mine, or loss of time in the subsequent working of the mine, may give authority for such employment by writing stating therein the reasons therefor, the number of persons who may be so employed, the nature of their employment, and the period for which the authority shall extend, but no authority shall be given by an inspector for the breaking out or raising of any coal or mineral for purposes of sale, unless the sanction of the Minister has been first obtained.

Power to inspector to authorise Sunday labour in certain cases.

Permits granted in accordance with this subsection shall set out the nature of the work to be performed on the portion or portions of the mine, and the number of persons permitted to be employed, and shall be posted at a conspicuous place at the pit mouth, and the departmental inspector shall give written notice to the union concerned of permits so granted.

Division 7—Returns, Plan, Notices, and Abandonment.

35. (1) On or before the tenth day of every month, the owner or manager of every mine shall send to the inspector of the district, on behalf of the Minister, a correct return, which shall be in duplicate and shall contain particulars with respect to the preceding month as to the name and situation of the mine, the names and descriptions of the owner, manager, and overmen, the number of persons ordinarily employed therein, and the quantity of mineral produced, won or wrought and the value of same, and such return shall also contain such other particulars and be in such form as may from time to time be prescribed by the regulations.

Returns by owner, agent or manager of mine. No. 25 of 1902, s. 37, as amended by No. 36 of 1926, s. 16.

(2) The inspector shall forward every return received by him to the Minister, who may publish the aggregate results of the returns made under this section with respect to any particular district, or any large portion of a district.

(3) Every owner or manager of a mine who fails to comply with this section, or makes any return which is false in any particular shall be guilty of an offence against this Act.

Plan of mine
to be kept
at office.
No. 25 of
1902, s. 38.
Amended by
No. 26 of
1951, s. 21;
No. 94 of
1972, s. 4.

36. (1) The owner, agent or superintendent, and manager shall keep, in the office at the mine, an accurate working plan of the mine workings showing the workings up to a date not more than one month previously, also a main plan made up to a date not more than three months previously, showing the workings of the mine, together with a section of the strata sunk through, or if that be not reasonably practicable, a statement of the depth of the shaft, with a section of the seam; and in addition to the abovementioned plan, there shall also be provided a tracing of a surface plan on the same scale, showing thereon all streets, roads, buildings, creeks, rivers, bays, swamps, navigable waters, and depths of same, and limits of any tidal waters within the boundaries of the property; and at any time when required to do so by the Minister, such owner or manager shall furnish the Minister with a copy of every such plan, section, or statement.

(2) The owner or manager of the mine shall, on request at any time of an inspector, produce to him at the office at the mine such plan and section, and shall also, on the like request, cause to be marked on such plan and section the state of the workings of the mine complete to the date of the said request; and the inspector shall be entitled to inspect the plan and section, and, for official purposes only, to make a copy of any part of such plan and section respectively.

(2a) The manager shall cause a skeleton plan of the mine on a scale of not less than 1:5 000 to be placed in a conspicuous position at the entrance of the mine showing the position of all existing workings, intake and return airways, main haulage roads and travelling roads. The intake airways shall be coloured blue and the return airways red. A similar plan shall also be placed in the deputies' cabin on a scale of not less than 1:4 000 showing the workings in their section.

(3) If the owner or manager of any mine fails to keep, or refuses to produce or allow to be examined or copied, the plan and section aforesaid, or wilfully withholds any portion thereof, or wilfully refuses, on request, to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall, unless he shows that he was ignorant of the concealment, imperfection, or inaccuracy, be guilty of an offence against this Act; and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner or manager to cause to be made within a reasonable time, at the expense of the owner of the mine, an accurate plan and section, showing the particulars hereinbefore required. Every such plan must be on a scale of not less than 1:2 000.

(4) If the owner or manager fails, within twenty days after the requisition of the inspector, or within such time as may be allowed by the Minister, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

37. (1) Where any mine or seam is abandoned, the owner of the mine or seam at the time of its abandonment shall, within fourteen days after the abandonment, send to the inspector of the district, on behalf of the Minister, an accurate plan showing the boundaries of the workings of the mine or seam up to the time of the abandonment, and the position of the workings with regard to the surfaces and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft with a section of the seam. Every such plan or section shall be on such scale as may be from time to time prescribed by the Minister.

Plans of abandoned mine or seam to be sent to the Minister. *Ibid.* s. 42.

(2) Such plan and section shall be preserved under the care of the Minister. Any person shall, by permission of the Minister, be permitted at any time to examine the plan and section of the underground workings of any mine so abandoned.

Coal Mines Regulation.

(3) The owner aforesaid shall also, within fourteen days of the abandonment of the mine or seam, send to the inspector of the district, on behalf of the Minister, a correct return, specifying, with respect to the period which has elapsed since the expiration of the month covered by the last monthly return made under this Act, the particulars required in that return; and the provisions of this Act with respect to the said monthly return shall apply to the return so sent.

(4) If the owner of a mine or seam fails to comply with this section, he shall be guilty of an offence against this Act.

(5) A complaint or information of an offence under this section may be made or laid at any time within two months after abandonment of the mine or seam, or after service on the owner aforesaid of a notice to comply with the requirements of this section, whichever last happens.

Division 8—Accident Relief and Superannuation.

38. (1) The owner of every mine shall contribute to a fund for the necessary relief of persons who during the course of their duties as employees of coal mines in Western Australia—

- (a) suffer personal injury by accident arising out of or in the course of the employment; or
- (b) contract any disease,

for which they are eligible to receive compensation under the provision of the Workers' Compensation Act, 1912, and for the relief of the families of employees who have been killed by such accident or who have died from any such disease, and for the purposes of such fund shall, in the months of January and July in every year, pay a sum equivalent to 0.4101 cent per tonne on the output of all coal sold from any mine during the preceding six

Coal Mines
Accident
Relief Fund.
No. 25 of
1902, s. 72,
as amended
by No. 25 of
1915, s. 4,
No. 36 of
1926, s. 21,
No. 3 of 1940,
ss. 2 and 3.
Amended by
No. 21 of
1962, s. 2;
No. 14 of
1965, s. 3;
No. 113 of
1965, s. 4 (1);
No. 94 of
1972, s. 4;
No. 137 of
1976, s. 10.

months respectively, ending on the last day of the preceding month of December or June (as the case may be), into a trust account to be kept by a trust constituted pursuant to this section as hereinafter provided for.

(2) All employees (excepting boys) of every coal mine working in Western Australia shall each contribute to the Coal Mines Accident Relief Fund thirty cents per fortnight, and boys who are employees of such mines shall each contribute fifteen cents per fortnight to the said fund, and boys in case of personal injury by accident or the contraction of any disease, during the course of their duties as such employees and for which they are eligible to receive compensation under the Workers' Compensation Act, 1912, shall receive only half the benefits from the fund as compared with the adult employees, and the owner or manager of every such mine shall deduct fortnightly from the earnings of each of his employees such contributions, and pay the same to the trust to be dealt with in accordance with the provisions of this Act, and shall be responsible to the provisions of this Act, and shall be responsible to the said trust for compliance with the provisions of this section. The obligation to contribute to and the right to receive the benefits of the said fund shall extend to check-weighers appointed under section thirty-one and the provisions of this subsection shall apply to check-weighers accordingly.

(3) Insofar as employees (including boys) purporting to act in compliance with subsection (2) of section sixty-seven of the Coal Mines Regulation Act, 1902-1941, had, prior to the commencement of the Coal Mines Regulation Act Amendment Act, 1940 (No. 3 of 1940), contributed to the Coal Mines Accident Relief Fund any amounts at rates in excess of the rates specified in the said subsection as then in force, such amounts shall be deemed to have been properly and validly so contributed, and shall be deemed to have been and shall be part of the moneys in the said fund, and may be used and applied in and for any of the purposes for which moneys in the said fund may be used and applied under the provisions of this Act.

Contributions validated.

Coal Mines Regulation.

(3a) Any moneys purported to have been contributed to the Coal Mines Accident Relief Fund under subsection (2) of this section in excess of the amounts prescribed by that subsection as in force immediately before the coming into operation of section ten of the Coal Mines Regulation Act Amendment Act, 1976 shall be deemed to have been properly and validly contributed and shall be deemed to have been and shall be part of the moneys of that fund, and may be used and applied in and for any of the purposes for which moneys in that fund may be used and applied under the provisions of this Act.

(4) The said trust shall be called the Coal Mines Accident Relief Fund Trust, and shall consist of a representative of the Mines Department, to be appointed by the Minister, and two persons to be appointed by the mine owners and miners, respectively, in the manner prescribed in the regulations, and the said trustees shall, subject to the regulations, pay such sums to persons who, during the course of their duties as employees of coal mines, have suffered personal injury by accident arising out of or in the course of the employment or have contracted any disease for which they are eligible to receive compensation under the Workers' Compensation Act, 1912, or to relatives of persons who have been killed by such accident or who have died from the effects of any such disease, as shall be recommended and approved of by the accident committee to be appointed by the employees of the coal mines, in the manner prescribed in the regulations.

(5) The trustees or their accredited representative shall have power to examine from time to time the books of any owner or manager of a coal mine, for the exclusive purpose of ascertaining the amounts due or paid by such mine to the said Accident Relief Fund, and also as to the amounts deducted from the employees of the mine as contributions towards such fund.

(6) If on such examination it appears that any such owner or manager has not paid into the said Accident Relief Fund any amount as hereby prescribed, or only a part thereof, such owner or manager shall be deemed guilty of an offence against this Act, and shall be liable to a penalty of one dollar in respect of each and every dollar or fraction of a dollar which he should have paid but has not so paid into the said fund, and all penalties recovered under this section, less the expenses incident to recovery of same, shall be paid into the aforesaid fund, and shall form part thereof.

(7) Every owner, or manager, or officer appointed by the employees of a coal mine who refuses, obstructs, or prevents or causes the refusal, obstruction, or prevention of the production of the books of the mine, and the free examination of such books for the aforesaid purposes, shall be deemed guilty of an offence against this Act.

(8) The cheque books, bank books, vouchers and documents of the trustees and accident committee, relating to the said Accident Relief Fund, shall be audited every twelve months by an auditor appointed by the Minister.

(9) All moneys remaining unclaimed for twelve months shall revert to the fund.

(10) The obligation to contribute to and the right to receive the benefits of the Coal Mines Accident Relief Fund, imposed and conferred by this section, extend to persons who are employed solely in cutting timber for use in or about a coal mine, whether as contractors to the owner thereof or as persons employed by such a contractor.

Division 9.—Miscellaneous.

39. (1) Where two or more parts of a mine are worked separately, the owner or manager of the mine shall give notice in writing to that effect to the inspector of the district, together with a plan

Division of mine into parts.
No. 25 of 1902, s. 20, as amended by No. 36 of 1926, s. 11.

Coal Mines Regulation.

showing such parts of the mine, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine as noted on the plan.

(2) If the inspector is of opinion that the division of a mine, in pursuance of this section, tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by a notice served on the owner or manager of the mine; and the owner or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district stating that he declines so to acquiesce, and thereupon the matter shall be finally and conclusively determined by the Minister, after giving all parties interested an opportunity of being heard by him.

Heading
repealed
and
re-enacted
by No. 137 of
1976, s. 11.

Board of Examiners.

40. (1) For the purposes of this Act there shall be a board known as the Board of Examiners.

(2) Subject to this Act, the Board shall consist of—

- (a) the person holding or acting in the office of State Coal Mining Engineer, who shall be chairman;
- (b) a person holding or acting in the office of senior departmental inspector; and
- (c) a person being the holder of a first class mine manager's certificate of competency who is appointed by the Minister upon the nomination of the body known as the Association of Colliery Management.

(3) Where a Board is to examine an applicant for a certificate of competency the Minister shall appoint, on the joint nomination of the body known as the Colliery Combined Mining Unions Council and the body known as the Australian Collieries Staff Association, Western Australian Branch, a further person as a member of the Board for the purpose of assisting the Board in the assessment of the practical experience of the applicant.

Board of
Examiners.
Repealed
and
re-enacted
by No. 137 of
1976, s. 11.

(4) The chairman may appoint any person to be his deputy, and, any member of the Board may, with the permission of the chairman, appoint a person to be the deputy of the member so appointing him and a person appointed a deputy under this subsection is, in the event of the absence from a meeting of the person of whom he is the deputy, entitled to attend that meeting and when so attending has all the powers, functions and duties of the person of whom he is the deputy.

(5) For the purpose of completing and determining any proceedings or inquiry under this Act commenced during his term of office as member of the Board, a person who was a member of the Board immediately before the coming into operation of section eleven of the Coal Mines Regulation Act Amendment Act, 1976 may be co-opted to serve as an additional member of the Board for that purpose notwithstanding that he has ceased to hold office for other purposes.

40A. (1) A person appointed to be a member of the Board pursuant to paragraph (c) of subsection (2) of section forty of this Act shall hold office until removed by the Minister.

Term of office.
Added by No. 137 of 1976, s. 11.

(2) A person appointed to be a member of the Board pursuant to subsection (3) of section forty of this Act shall hold office in accordance with the terms of the instrument by which he is appointed.

40B. (1) A meeting of the Board shall not be held for the purpose of examining the practical experience of applicants for certificates of competency under this Act unless reasonable notice of the meeting has been given to the person who is appointed as a member pursuant to subsection (3) of section forty of this Act, or if he cannot be contacted prior to the meeting, to his deputy.

Meetings of the Board.
Added by No. 137 of 1976, s. 11.

Coal Mines Regulation.

(2) At a meeting of the Board a quorum is constituted by the chairman and one other member.

(3) A question arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, but in the event of an equality of votes the chairman has a casting vote in addition to his deliberative vote.

Certificates
of
competency
under
this Act.
Repealed
and
re-enacted
by No. 137 of
1976, s. 12.

41. (1) Subject to this Act, the Board may issue the following certificates of competency—

- (a) first class mine manager's certificate of competency;
- (b) second class mine manager's certificate of competency;
- (c) third class or deputy's certificate of competency;
- (d) open cut mine manager's certificate of competency; and
- (e) deputy's (open cut) certificate of competency.

(2) Without affecting the application of the Interpretation Act, 1918 and particularly sections fifteen and sixteen thereof, it is hereby declared that any certificate of competency or certificate of service in force under this Act as in force immediately before the coming into operation of section twelve of the Coal Mines Regulation Act Amendment Act, 1976 shall continue and have effect as if it had been issued under this Act as in force after the coming into operation of that section.

(3) A person who before the coming into operation of section twelve of the Coal Mines Regulation Act Amendment Act, 1976 was the holder of a certificate specified in column one of the table to this subsection shall for the purposes of this Act on and after the coming into operation of that section be deemed to be the holder of the

certificate of competency specified opposite and corresponding to that certificate in column two of that table.

Column one	Table	Column two
first class certificate		first class mine manager's certificate of competency
second class certificate		second class mine manager's certificate of competency
third class certificate		third class or deputy's certificate of competency

41A. A person is not entitled to a first class mine manager's certificate of competency unless—

Mine manager's certificate of competency. Added by No. 137 of 1976, s. 13.

(a) he—

- (i) has had not less than five years' practical experience of a nature acceptable to the Board in a mine in which men are employed underground, of which not less than three years has been general underground mining experience; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate of competency; or

(2) he—

- (i) has had not less than three years' practical experience in or about a mine in which men are employed underground, of which at least two years has been general underground mining experience of a nature acceptable to the Board;
- (ii) has fulfilled all the requirements for taking a degree in mining engineering at a university in a State or Territory of the Commonwealth, or a

Coal Mines Regulation.

diploma of associateship in mining engineering from the School of Mines of the Western Australian Institute of Technology, or such other qualification as in the opinion of the Board is substantially equivalent to such a degree or diploma; and

- (iii) has passed the examination prescribed in relation to that certificate requiring a knowledge of coal mining practice and the mining laws of Western Australia as set forth in this Act and the regulations.

41B. A person is not entitled to a second class mine manager's certificate of competency unless—

(a) he—

- (i) has had not less than five years' practical experience in or about a mine in which men are employed underground, of which not less than three years has been general underground mining experience of a nature acceptable to the Board; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate of competency; or

(b) he—

- (i) has had not less than three years' practical experience in or about a mine in which men are employed underground, of which at least two years has been general underground experience of a nature acceptable to the Board;
- (ii) has fulfilled all the requirements for taking a degree in mining engineering at a University in a State or Territory of the Commonwealth, or a

Second
class
mine
manager's
certificate
of
competency.
Added by
No. 137 of
1976, s. 14.

diploma of associateship in mining engineering from the School of Mines of the Western Australian Institute of Technology, or such other qualification as in the opinion of the Board is substantially equivalent to such a degree or diploma; and

- (iii) has passed the examination prescribed in relation to that certificate requiring a knowledge of coal mining practice and the mining laws of Western Australia as set forth in this Act and the regulations.

41C. A person is not entitled to a third class or deputy's certificate of competency unless—

Third class or deputy's certificate of competency. Added by No. 137 of 1976, s. 15.

(a) he—

- (i) has had not less than five years' varied practical experience in a mine in which men are employed underground, of which not less than three years has been general underground mining experience of a nature acceptable to the Board; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate; or

(b) he—

- (i) has had not less than three years' practical experience in or about a mine in which men are employed underground, of which at least two years has been general underground mining experience of a nature acceptable to the Board;
- (ii) has fulfilled all the requirements for taking a degree in mining engineering at a university in a State or Territory of the Commonwealth, or a

Coal Mines Regulation.

diploma of associateship in mining engineering from the School of Mines of the Western Australian Institute of Technology, or such other qualification as in the opinion of the Board is substantially equivalent to such a degree or diploma; and

- (iii) has passed the examination prescribed in relation to that certificate requiring a knowledge of coal mining practice and the mining laws of Western Australia as set forth in this Act and the regulations.

41D. A person is not entitled to an open cut mine manager's certificate of competency unless—

(a) he—

- (i) has had not less than three years' varied practical experience of a nature acceptable to the Board in or about an open cut, of which not less than three months has been practical experience in the use of explosives; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate; or

(b) he—

- (i) has had not less than two years' practical experience of a nature acceptable to the Board in or about an open cut, of which not less than three months has been practical experience in the use of explosives; and
- (ii) has fulfilled all the requirements for taking—
 - (A) a degree in engineering at a university in a State or Territory of the Commonwealth; or

Open
cut
mine
manager's
certificate
of
competency.
Added by
No. 137 of
1976, s. 16.

- (B) a diploma in mining or engineering at a technical institute approved by the Board; or
 - (C) a diploma in surface mining granted by the Technical Education Division of the Education Department of Western Australia; or
 - (D) such other qualification as in the opinion of the Board is substantially equivalent to a degree or diploma specified in items (A) to (C) (inclusive) of this subparagraph; and
- (iii) has passed an examination prescribed in relation to that certificate requiring a knowledge of the mining laws of Western Australia as set forth in this Act and the regulations.

41E. A person is not entitled to a deputy's (open cut) certificate of competency unless he—

- (a) has had in a mine not less than three years' varied practical experience of a nature acceptable to the Board of which not less than six months has been practical experience in the use of explosives; and
- (b) has passed the examinations prescribed by the Board in relation to that certificate of competency.

Deputy's
(open cut)
certificate of
competency.
Added by
No. 137 of
1976, s. 17.

41F. (1) Subject to this Act, where the Board is satisfied that a person is the holder of a certificate of competency issued by—

- (a) a board of examiners established by or constituted under the laws of another State or Territory of the Commonwealth relating to coal mining; or

Persons
who hold
certificates
issued
elsewhere.
Added by
No. 137 of
1976, s. 18.

Coal Mines Regulation.

- (b) an authority that grants certificates of competency relating to mining after conducting examinations that are in the opinion of the Board equivalent to the examinations prescribed under this Act,

the Board may issue to that person a certificate of competency under this Act that is in the opinion of the Board equivalent to the certificate of competency held by that person.

(2) The Board shall not issue a certificate of competency to a person pursuant to subsection (1) of this section unless—

- (a) where the certificate sought is not an open cut mine manager's certificate of competency, the Board is satisfied that the person has had experience substantially similar to that which would be required if the person were making an application under section forty-one A, forty-one B, forty-one C or forty-one E of this Act, as the case requires; and
- (b) where the certificate sought is an open cut mine manager's certificate of competency, the Board is satisfied that the person has had adequate surface mining experience which included not less than twelve months' experience in open cut coal mining.

Applicant
to be a fit
and proper
person.
Added by
No. 137 of
1976, s. 19.

41G. Where the Board is satisfied that a person is not a fit and proper person to hold a certificate of competency under this Act the Board shall refuse to issue a certificate of competency to that person.

Applicant
to have
passed an
examination
in first aid.
Added by
No. 137 of
1976, s. 19.

41H. A person is not entitled to be issued with a certificate of competency under this Act unless he satisfies the Board that he has passed an examination in first aid conducted by a person or body approved of by the Board.

42. (1) The proceedings of the Board and the fees to be paid by applicants for examination for certificates shall be in accordance with such regulations as may be made for the purpose by the Governor.

Proceedings and powers of Board.
No. 25 of 1902, s. 25, as amended by No. 36 of 1926, s. 15.
Amended by No. 137 of 1976, s. 20.

(2) Subject to the regulations, examinations for the issue of certificates of competency under this Act shall be conducted at such times and in such manner as is directed by the Board.

(2a) Subject to this Act, a person who has passed an examination conducted under this Act is entitled to be issued with the certificate of competency applicable to that examination.

(3) The Board shall from time to time make to the Minister a report of their proceedings, and of such other matters as the Minister may at any time require.

(4) A register of the holders of such certificates shall be kept by the Board.

43. If at any time representation is made to the Minister by an inspector or otherwise that any manager, under manager or deputy holding a certificate under this Act is incapable, incompetent, or unfit to discharge his duties; or has been convicted of an offence against this Act, the Minister may, if he thinks fit, cause inquiry to be made by the Board into the conduct of the manager, under manager or deputy, and with respect to every such inquiry the following provisions shall have effect:—

Inquiry into competency of manager, and cancellation of certificate in case of unfitness.
No. 25 of 1902, s. 26; Amended by No. 137 of 1976, s. 24.

(a) The inquiry shall be held at such time and place as the Board may appoint; the manager, under manager or deputy to have the right to engage counsel to defend him at such inquiry. He shall receive twenty-one days' notice of the Board's intention to hold the inquiry, and if the manager, under manager or deputy intends to employ counsel, he shall give ten days' notice of such intention to the secretary of the Board.

Coal Mines Regulation.

- (b) The Board shall, at least ten days before the commencement of the inquiry, furnish to the manager, under manager or deputy a statement of the case upon which the inquiry is instituted.
- (c) The manager, under manager or deputy shall attend such inquiry and may produce such evidence as may be considered necessary.
- (d) The Board shall, upon the conclusion of the inquiry, forward to the Minister a report containing a full statement of the case and their opinion thereon; and the Governor, on the recommendation of the Minister, may either cancel or suspend such certificate.
- (e) Any person shall, if ordered in writing so to do by the Minister, deliver into the charge of the said Board his certificate of competency or of service, which shall be retained by the said Board during the period of his disqualification, and no such person shall during the period of such disqualification take charge of any mine, and any person failing or neglecting to comply with this order shall be guilty of an offence against this Act; and
- (f) persons attending as witnesses before the Board shall be allowed such expenses as would be allowed to witnesses in a criminal case at the Supreme Court.

Costs and expenses of inquiry.
 No. 25 of 1902, s. 27.
 Amended by No. 137 of 1976, s. 24.

44. (1) The Board may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any court of summary jurisdiction as if such costs and expenses were a penalty imposed by that court.

(2) The party entitled to the benefit of such order shall be entitled to obtain from the Board a certified copy thereof.

45. Where a certificate of a manager, under manager or deputy is altered, suspended, or cancelled in pursuance of this Act, the alteration, suspension, or cancellation shall be recorded in the register of holders of certificates, and shall be notified by the Board to the Minister.

Record of cancellation of certificate.
Ibid. s. 28.
Amended by No. 137 of 1976, s. 24.

46. Whenever any person proves to the satisfaction of the Minister that he has, without fault on his part, lost any certificate granted to him under this Act, the Minister may, on payment of such fee (if any) as the regulations direct, cause a copy of the certificate to which the applicant appears by the register to be entitled to be made out and certified by the person who keeps the register and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate.

Copy of certificate in case of loss.
Ibid. s. 29.

47. Every person who commits any of the following offences (that is to say)—

- (1) forges or counterfeits, or knowingly makes any false statement in any certificate of competency under this Act, or in any certificate of service granted under this Act, or any official copy of any such certificate; or
- (2) knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement, or knowingly makes use of or attempts to make use of any certificate of competency or service granted to some other person; or
- (3) for the purpose of obtaining for himself or any other person employment as a certificated manager, under manager, or deputy,

Forgery, misrepresentation, etc.
Ibid. s. 30.
Amended by No. 137 of 1976, s. 24.

Coal Mines Regulation.

or the grant, renewal, or restoration of any certificate under this Act, or a copy thereof, either—

- (a) makes or gives any declaration, representation, statement, or evidence which is false in any particular; or
- (b) knowingly utters, produces, or makes use of any such declaration, representation, statement, or evidence, or any document containing the same,

shall be guilty of a misdemeanour and be liable on conviction to imprisonment for any term not exceeding two years.

Arbitration.

48. With respect to arbitrations under this Act, the following provisions shall have effect, namely:—

- (1) Where the parties to the arbitration are the owner or manager of the mine on the one hand, and the Inspector of Mines on behalf of the Minister on the other, paragraphs (1) to (16) of this section shall apply to such arbitration.
- (2) Each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator.
- (3) No person shall act as umpire under this Act who is employed in, or in the management of, or is interested in the mine to which the arbitration relates.
- (4) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party.
- (5) If within the said fourteen days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party

may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final.

- (6) If, before an award has been made, any arbitrator appointed by either party dies or becomes incapable to act, or for seven days refuses or neglects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place; and if he fails to do so within seven days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final.
- (7) In either of the foregoing cases where an arbitrator is empowered to act singly, or on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred.
- (8) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned.
- (9) The arbitrators, before they enter on the matter referred to them, shall appoint by writing under their hand an umpire to decide on points on which they may differ.
- (10) If the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognisance, the person or persons who appointed such umpire shall forthwith appoint another umpire in his place.

Coal Mines Regulation.

- (11) If the arbitrators refuse or fail, or for seven days after the request of either party neglect to appoint an umpire, then, on the application of either party, an umpire shall be appointed by the Minister, and such umpire shall be a stipendiary magistrate within the jurisdiction of which the mine or any shaft of the mine is situate, or a Judge of the Supreme Court.
- (12) The decision of every umpire on the matter referred to him shall be final.
- (13) If a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place.
- (14) Arrangements shall, when practicable, be made for the matter in difference being heard at the same time before the arbitrators and the umpire.
- (15) The arbitrators and the umpire, or any of them, may examine the parties and their witnesses on oath, and may also consult any barrister and solicitor, engineer, or scientist whom they think it expedient to consult.
- (16) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Minister, and, together with the costs of the arbitration and award, shall be paid by the parties, or one of them, according as the award may direct. Such costs may be taxed by the taxing master of the Supreme Court, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount, if any, payable by either of the parties may, in the event of non-payment, be recovered in any court of competent jurisdiction.

General Rules.

49. (1) The Governor may make general rules which shall, so far as is reasonably practicable, be observed in every mine.

(2) Such rules may be made for all or any of the undermentioned purposes, namely—

- (a) the ventilation of mines;
- (b) inspection of the condition of mines as to ventilation, and the appointment of inspecting stations in mines;
- (c) the inspection of machinery and plant above and below ground;
- (d) the fencing of entrances;
- (e) the withdrawal of workmen in case of danger;
- (f) the types of lamps to be used;
- (g) the construction of safety lamps;
- (h) the examination of safety lamps;
- (i) the position of lamp stations;
- (j) the use of explosives;
- (k) the position of water and bore holes;
- (l) the providing of signalling and manholes for travelling planes worked by machinery;
- (m) the providing of manholes for other travelling roads;
- (n) the keeping clear of manholes;
- (o) the dimensions of travelling roads;
- (p) the fencing of entrances to shafts;
- (q) the securing of shafts;
- (r) the securing of roofs and sides;
- (s) the nature and size of timbering;
- (t) the prevention of over-winding;
- (u) the use of down-cast shafts;
- (v) the providing of safety appliances;

General rules.
No. 25 of 1902, s. 50, as amended by No. 36 of 1926, s. 18.
Amended by No. 26 of 1951, s. 23; No. 137 of 1976, s. 21.

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- (w) the attendance of engine-drivers;
- (x) the providing and testing of cages in shafts;
- (y) the means of signalling for working shafts;
- (z) the providing of gates in shafts;
- (za) the providing of sufficient cover over head;
- (zb) the employment of persons in charge of machinery;
- (zc) the use of chains and ropes and the testing thereof;
- (zd) the keeping of machinery in good order and condition;
- (ze) the prevention of rope slipping on drum;
- (zf) as to travelling in main return air ways;
- (zg) as to brakes and indicators;
- (zh) as to the fencing of machinery;
- (zi) as to safety valves and gauges for boilers;
- (zj) as to barometers and thermometers;
- (zk) the providing of ambulance rooms with such attendants and such first-aid facilities as may be required by the Minister for use in case of accidents;
- (zl) the prevention of wilful damage;
- (zm) as to the observance of regulations;
- (zn) as to the keeping of books and copies thereof;
- (zo) as to the employment of skilled workmen in the face of the workings;
- (zp) as to periodical inspections on behalf of workmen;
- (zq) use of electricity and electrical equipment and electrical machines and locomotives;
- (zr) care and treatment of animals;
- (zs) the sanitation of mines;

- (zt) the provision of approved change houses, including bathrooms, constructed to specification, and change house attendants;
- (zu) transport of workers underground;
- (zv) the drainage of mines, both surface and underground;
- (zw) the methods of working mines;
- (zx) the provision of shelter for surface workers;
- (zy) the provision of suitable crib places, underground and on the surface;
- (zz) the eradication of dust, both on the surface and underground;
- (ya) the provision of suitable lighting in and about mines;
- (yb) all other matters connected with the regulation of mines and the working thereof not expressly provided for by the provisions of this Act.

(3) [*Repealed by No. 26 of 1951, s. 23.*]

(3a) To the extent of any inconsistency between the provisions of regulations made pursuant to the provisions of paragraph (zq) of subsection (2) of this section and the provisions of any other Act, or any other regulations made pursuant to the provisions of any other Act, the provisions of the regulations made pursuant to the provisions of paragraph (zq) of subsection (2) of this section shall prevail.

(4) Until otherwise provided by general rules made as aforesaid, the general rules set forth in the Schedule to the Coal Mines Regulation Act, 1902-1940, in force at the time when this Act comes into operation shall, so far as may be reasonably practicable, be observed in every mine.

Coal Mines Regulation.

Special Rules.

Special rules
for every
mine.
No. 25 of
1902, s. 52.

50. (1) There shall be established in every mine such rules (referred to in this Act as special rules) for the conduct and guidance of the persons acting in the management of such mine, or employed in or about the mine, as under the particular state and circumstances of such mine may appear best calculated to prevent dangerous accidents, and to provide for the safety, convenience, and proper discipline of the persons employed in or about the mine.

(2) Such special rules when established shall be signed in duplicate by the inspector who is inspector of the district at the time the rules are established, and shall be observed in and about every such mine (including any extension thereof) in the same manner as if they were enacted in this Act.

(3) If special rules shall have been established for any mine, and subsequently a change occurs, either in the name of such mine or in the ownership of such mine, such special rules shall, notwithstanding the aforesaid change, be and continue to be the special rules of such mine, unless and until they shall be amended or new rules submitted under the provisions of this Act.

(4) Special rules under the Coal Mines Regulation Act, 1902-1940, in force at the time when this Act comes into operation shall be considered special rules properly established under this Act.

Establish-
ment of new
special rules.
No. 25 of
1902, s. 53.

51. (1) The owner or manager of every mine shall, when called upon by the Minister to do so, prepare and transmit to the inspector, for approval by the Minister, special rules for such mine. In the event of any work taking place for the purpose of opening a new mine or of renewing the working of an old mine, special rules for such mine shall be so prepared and transmitted within three months from the commencement of such work.

(2) The proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice shall, during not less than two weeks before the rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules for the information of persons employed in the mine; and a certificate that the rules and notice have been so posted up shall be sent to the inspector, with two copies of the rules signed by the person sending the same.

(3) If the rules are not objected to by the Minister within forty days after the receipt by the inspector, they shall be established.

52. (1) If the Minister is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine, or for the safety or convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the inspector, object to the rules, and propose to the owner or manager, in writing, any modifications in the rules by way either of omission, alteration, substitution or addition.

The Minister may object to special rules.
No. 25 of 1902, s. 54.

(2) If the owner or manager does not within twenty days after the modifications proposed by the Minister are received by him, object in writing to them, the proposed special rules, with those modifications, shall be established.

(3) If the owner or manager sends his objection in writing within the said twenty days to the Minister, the matter shall be referred to arbitration under this Act, and the date of the receipt of the objection by the Minister shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

Arbitration.

Amendment
of special
rules.
No. 25 of
1902, s. 55.

53. (1) After special rules are established under this Act in any mine, the owner or manager of the mine may, from time to time, propose in writing to the inspector of the district, for the approval of the Minister any amendment of the rules or any new special rules; and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner as nearly as may be as they apply to the original rules.

(2) The Minister may, from time to time, propose in writing to the owner or manager of the mine any new special rules or any amendment of the special rules; and the provisions of this Act with respect to the proposal of the Minister for modifying the special rules transmitted by the owner or manager of a mine shall apply to all such new special rules and amendments in like manner as nearly as may be as they apply to the proposal.

False state-
ment and
neglect to
transmit
special rules.
No. 25 of
1902, s. 56.

54. If the owner or manager of any mine makes any false statement with respect to the posting up of the rules or notices, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the inspector, for the approval of the Minister, the owner or manager of such mine shall be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by enforcing, to the best of his power, the provisions of this Act to secure the transmission of the rules.

Certified
copy of
special rules
to be
evidence.
No. 25 of
1902, s. 57.

55. An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which, for the time being, are established under this Act in any mine, and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules and of the fact that they are duly established under this Act and have been signed by the inspector.

56. The Governor may make and publish in the *Government Gazette* a set or sets of special rules, and thereafter the rules so made and published shall be deemed the special rules of every mine to which this Act applies and in respect of which no special rules be in force. Upon special rules being established for any mine, the special rules made by the Governor as aforesaid shall cease to apply to such mine.

Special rules made by the Governor. No. 25 of 1902, s. 58.

57. For the purpose of making known the provisions of this Act, and the special rules, to all persons employed in and about each mine, an abstract of this Act, supplied on the application of the owner or manager of the mine by the inspector of the district, on behalf of the Minister, and a correct copy of all the special rules shall be published, as follows:—

Publications of abstract of Act and copy of special rules. No. 25 of 1902, s. 59. Amended by No. 113 of 1965, s. 4 (1).

- (1) The owner or manager of the mine shall cause the abstract and copy of the rules, with the name of the mine and the name and address of the inspector of the district, and the name of the owner or manager appended thereto, to be posted up in legible characters in some conspicuous place at or near the mine where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed shall cause them to be renewed with all reasonable despatch.
- (2) The owner or manager shall supply a printed copy of the abstract and the special rules (at a price not exceeding three cents per copy) to each person employed in or about the mine who applies for a copy at the office at which the persons immediately employed by the owner or manager are paid. Every person employed in or about the mine shall acquaint himself thoroughly with the general and special rules, and shall sign a certificate to that effect.

- (3) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and the employed.

In the event of non-compliance with the provisions of this section by any person whomsoever, the owner and manager shall each be guilty of an offence against this Act; but the owner or manager of such mine shall not be deemed guilty if he proves that he had taken all reasonable means, by enforcing to the best of his power the observance of this section, to prevent such non-compliance.

Pulling down or defacing notices.
No. 25 of 1902, s. 60.

58. Every person who wilfully pulls down, injures, or defaces any abstract notice, proposed special rules, or special rules when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

Negligence.
No. 25 of 1902, s. 8.

59. Any person in charge of machinery used in a mine who is guilty of negligence by which any property is destroyed or damaged shall be guilty of an offence against this Act.

Penalty for offence against Act.
No. 25 of 1902, s. 61.
Amended by No. 113 of 1965, s. 4 (1); No. 137 of 1976, s. 22.

60. (1) Every person employed in or about a mine (other than an owner or manager) who is guilty of any act or omission which, in the case of an owner or manager, would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

(2) Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed shall be liable to a penalty not exceeding, if he is an owner or manager, five hundred dollars, and if he is any other person, one hundred dollars for each offence; and if an inspector has given notice of any such offence, to a further penalty not exceeding two hundred dollars for every day after such notice that such offence continues to be committed after any conviction.

(3) Every person who contravenes or does not comply with any of the general rules shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the general rules in the case of any mine to which this Act applies by any person whomsoever, the owner or manager shall be 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 and regulations for the working of the mine to prevent such contravention or non-compliance.

Ibid. s. 51.

(4) If any person who is bound to observe the special rules established for any mine acts in contravention of, or fails, to comply with any of them, he shall be guilty of an offence against this Act; and also the owner or manager of such mine shall be 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 rules and regulations for the working of the mine so as to prevent such contravention or non-compliance.

Ibid. s. 52 (3).

61. Where a person who is an owner, manager, under manager or deputy of, or a person employed in or about a mine, is guilty of any offence against this Act which, in the opinion of the court that tries the case, is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and which was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a penalty will not meet the circumstances of the case, to imprisonment with or without hard labour, for a period not exceeding three months.

Imprisonment for wilful neglect endangering life or limb.

Ibid. s. 62.
Amended by No. 137 of 1976, s. 24.

62. Any complaint or information made or laid in pursuance of this Act shall (save as otherwise expressly provided by this Act) be made or laid within three weeks from the time when the matter of the complaint or information arose.

General provisions as to summary proceedings.
Ibid. s. 63.

Prosecutions
of owners,
managers,
etc.
Ibid. s. 64.

63. (1) No prosecution shall be instituted before a court of petty sessions, except by an inspector or with the consent in writing of the Minister.

(2) No prosecution shall be instituted against a coroner for any offence against this Act, except with the consent of the Minister.

Regulations.
Cf. No. 25 of
1902, s. 65
and s. 76.
Amended by
No. 113 of
1965, s. 4 (1);
No. 137 of
1976, s. 23.

64. (1) The Governor may make regulations for or with respect to any matters or things which are by this Act authorised or permitted to be prescribed or which are necessary or expedient to be prescribed in order to carry the objects and purposes of this Act into effect.

(2) Without in any way affecting or limiting the generality of subsection (1) of this section the Governor may make regulations particularly in relation to any of the following matters—

- (a) the form of register to be kept of boys employed in or in connection with any mine;
- (b) the examinations to be passed by applicants for certificates of competency granted under this Act, the fees payable for examinations and certificates of competency;
- (c) any forms of returns or plans or sections to be furnished under this Act and the particulars to be stated therein;
- (d) the management and administration of funds and moneys in connection with the accident fund under this Act.

(2a) The regulations may prescribe written or oral examinations or both and shall require that in every examination regard shall be had to such knowledge as is necessary for the practical working of mines.

(2b) Regulations relating to examinations for a second class mine manager's certificate of competency, third class or deputy's certificate of competency and a deputy's (open cut) certificate of competency shall prescribe examinations that are suitable for practical working miners.

(3) Any regulations made under this section may—

- (a) be made for the whole of the State or any particular part thereof;
- (b) impose as a penalty for any breach of any regulation or for any disobedience to any lawful order of a registrar, a fine not exceeding twenty dollars and in default of payment thereof imprisonment, with or without hard labour, for any period not exceeding three months.

65. A person who is the owner or manager of any mine, or miner or miner's agent, or who is a director of a company, being the owner of a mine, shall not, except with the consent of both parties to the case, sit in petty sessions or adjudicate in respect of any offence under this Act.

Owner of mine, etc., not to act as Justice, etc., in proceedings under this Act. No. 25 of 1902, s. 66.

66. Where a penalty is imposed under this Act for neglecting to send a notice of any explosion or accident, or for any offence against this Act which has occasioned loss of life or personal injury, the Minister may, if he thinks fit, direct such penalty to be paid to or distributed among the persons injured and the relatives of any person whose death may have been occasioned by the explosion, accident, or offence, or among some of them: Provided that—

Application of penalties. *Ibid.* s. 67.

- (a) such persons did not, in his opinion, occasion or contribute to occasion the explosion or accident and did not commit, and were not parties to committing, the offence;

- (b) the fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence.

Decision of question whether a mine is under this Act.
Ibid. s. 68.

67. If any question arises (otherwise than in legal proceedings) whether a mine is a mine to which this Act applies, the question shall be referred to the Minister, whose decision thereon shall be final.

Powers of Ministers as to making and revoking orders.
Ibid. s. 69.

68. Any order of or exemption granted by the Minister under this Act may be made and from time to time revoked or altered by the Minister, either unconditionally or subject to such conditions as he may see fit, and shall be signed by the Minister or Under Secretary on the Minister's behalf.

Entry on adjoining mine, etc., to ascertain whether owner, etc., is encroaching.
Ibid. s. 70.
Amended by No. 113 of 1965, s. 4 (1).

69. (1) Upon the affidavit of any person claiming to be legally or equitably interested in any mine or in any land adjoining or near to any other mine, that the owner of such lastmentioned mine is, or is by the person making such affidavit believed to be encroaching upon such firstmentioned mine or land, the Minister may by writing under his hand authorise an inspector, together with a mining surveyor or experienced miner, to enter upon such lastmentioned mine or land for the purpose of ascertaining whether any such encroachment has been made, and, if so, the extent thereof.

Deposit.

(2) Before granting such authority, the Minister shall require the person making or lodging the affidavit to deposit such a sum of money, not exceeding forty dollars, as shall be necessary to cover the cost of such inspection.

What may be done under such authority.

(3) The person so authorised may thereupon enter upon the mine or land described in such order, and descend any shaft or enter any mine, and for such purpose use the engines and other machinery ordinarily employed for that purpose by the person whose shaft or mine shall be descended or entered,

and make such plans and sections of the mine or land entered upon, and of other works therein as shall be necessary for the purpose aforesaid; and the owner of the mine to be entered upon shall render all necessary assistance to the person so authorised.

(4) Every such inspector or surveyor or miner shall, before entering upon such mine or land, make a statutory declaration that he will not (except as a witness in a court of justice), without the consent in writing of the owner of the mine 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 mine or land; and every person who shall divulge or cause to be divulged any such information, contrary to such declaration, shall be guilty of an offence against this Act.

Prior
statutory
declaration
required.

(5) Any owner who shall refuse such assistance as shall be necessary to enable the persons authorised by the Minister to descend the shaft, or enter and examine the mine, shall be guilty of an offence against this Act and shall forfeit and pay a sum not exceeding twenty dollars for every such refusal.

Penalty.

(6) The Minister may, out of the sum deposited as aforesaid, defray the cost of such inspection, and if such owner render such assistance as shall be necessary for the purposes aforesaid, and if there be no encroachment, may, out of such sum, award to such owner compensation for any loss or expense to which he may be put by reason of such inspection.

THE SCHEDULE.

S. 2.

Coal Mines Regulations Act, 1902-1940 (No. 25 of 1902, as amended by No. 25 of 1915, No. 36 of 1926, No. 44 of 1928, and No. 3 of 1940).