

Approved for reprint 2nd July, 1956.

WESTERN AUSTRALIA.

MINES REGULATION.

10° and 11° Geo. VI., No. LIV.

No. 54 of 1946.

[As amended by No. 24 of 1954 (a) and No. 49 of 1954 (b), and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN Act to consolidate and amend the law relating to the inspection and regulation of mines, and for other relative purposes.

[Assented to 24th January, 1947.]

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

1. This Act may be cited as the *Mines Regulation Act, 1946-1954*, and shall come into operation on a day to be fixed by proclamation.¹

Short title.
Amended by
No. 49 of
1954, s. 1 (3).

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 The Acts specified in the Schedule hereto are hereby repealed.

Repeal.

(a) Assented to 8th October, 1954.

(b) Assented to 8th December, 1954.

¹ Came into operation on 1st May, 1949: See Proclamation published in Gazette dated 4th April, 1949, p. 731.

- Divisions.** 3. This Act is divided into Divisions as follows—
- DIVISION 1—PRELIMINARY, ss. 4-5.
- DIVISION 2—INSPECTORS, ss. 6-23.
- DIVISION 3—MANAGEMENT, ss. 24-30.
- DIVISION 4—ACCIDENTS, ss. 31-35.
- DIVISION 5—EMPLOYMENT, ss. 36-41.
- DIVISION 6—SUNDAY LABOUR, ss. 42-45.
- DIVISION 7—ENGINE DRIVERS, s. 46.
- DIVISION 8—PLANS, ss. 47-48.
- DIVISION 9—MISCELLANEOUS, ss. 49-61.

DIVISION 1.—PRELIMINARY.

**Interpreta-
tions.**
(See No. 36 of
1906, s. 3).

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

“agent” when used in connection with the word “owner” or “manager,” means the person or body corporate having, as the attorney or representative of the owner, control and supervision of the mine and of the manager;

“explosives” means explosives as defined in section four of the Explosives Act, 1895;

“inspector” means an inspector of mines appointed under this Act;

“machinery” means every kind of mechanical appliance, and includes boilers, air receivers, steam pipes, air pipes, electric wires, cables, belts and ropes employed in or about a mine or in or about any works used for the treatment of metals or minerals;

“manager” means the person having immediate charge and direction of the mining operations on any mine, and includes a mine manager appointed under this Act, and any deputy appointed by a manager;

“mine” means a place within a mining district where any operation for the purpose of obtaining any metal or mineral has been or is being carried on, or where the products of any such place are being treated or dealt with or where explosives are being used;

“mining” or “to mine” means to disturb, remove, cart, carry, wash, sift, melt, refine, crush or otherwise deal with any rock, stone quartz, clay, sand, soil, or mineral by any mode or method whatsoever for the purpose of obtaining gold or any other mineral therefrom.

“mining district” means any district proclaimed by the Governor as a mining district under this Act;

“owner,” when used in relation to any mine to which this Act applies, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and includes a contractor or tributer working therein, but does not include a person 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;

“plan” includes an original plan or section and a correct copy or tracing thereof;

“prescribed” means prescribed by this Act;

“registered manager” means a manager registered under this Act;

“rise” shall mean any tunnel having an inclination above the horizontal of 15 degrees or over and not included in the definition of a shaft;

“shaft” shall mean any opening into a mine, having an inclination to the horizontal of 15 degrees or over, through which men or materials are raised and lowered or which is used as a main intake or outlet for ventilation. This definition does not include a winze constructed either from the surface or underground, which may temporarily be used for the raising or lowering of men and/or materials unless, in the opinion of the inspector, such winze is used as a shaft;

“winze” shall mean any tunnel having an inclination below the horizontal of 15 degrees or over, and not included in the definition of a shaft.

Exemptions.
(*Ibid.* s. 4.)

5. (1) This Act shall not apply, except as hereinafter expressly provided, to any coal mine within the meaning of the Coal Mines Regulation Act, 1946.¹

(2) The Governor may from time to time exempt from the operation of this Act, or any of the provisions thereof, any mine or class of mines, for such period and on such conditions (if any) as he may think fit.

DIVISION 2—INSPECTORS.

Appointment of inspectors of mines.
(See No. 53 of 1915, s. 5.)

6. The Governor may appoint fit and proper persons to be inspectors of mines. The inspectors of mines appointed under any Act hereby repealed shall be deemed to have been appointed under this Act.

Control.
(See No. 53 of 1915, s. 6.)

7. Every inspector of mines shall be under the control of such person as the Minister may from time to time appoint, and shall act in such districts, portions of districts, or mines, as the Minister may from time to time direct.

¹ Now Coal Mines Regulation Act, 1946-1951: See No. 26 of 1951, s. 2.

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

Classification
of Inspectors.
(See No. 53 of
1915, s. 7.)

- (1) District inspectors, who shall have the full powers of inspectors under this Act; but every district 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 that he is the holder of a mine manager's certificate of competency or of service under this Act.
- (2) Special inspectors, who shall be appointed to make such 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
- (3) workmen's inspectors, who shall in accordance with the regulations be elected by the majority of persons *bona fide* employed in the mines in the several mining districts; but no person shall be eligible for such appointment unless he has been engaged in general practical underground mining work as a working miner for at least five years and is the holder of a Commonwealth Health Laboratory Certificate, and of a certificate of competency or service as an underground supervisor under this Act, and until his election has been approved by the Minister.

Provided that no person shall be eligible to vote in any election for a workmen's inspector who is not a natural born or naturalised British subject.

9. District inspectors shall be under the Public Service Act, 1904,¹ 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.

District
inspectors.
(See No. 53 of
1915, s. 8.)

¹ Now Public Service Act, 1904-1955: See No. 53 of 1955, s. 1 (3).

Conditions of appointment of special and workmen's inspectors.
(See No. 53 of 1915, s. 9.)

10. All the terms and conditions of appointment of special inspectors and workmen's inspectors, the mines, district, and portions of districts 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.

Term of appointment of workmen's inspectors.
(See No. 53 of 1915, s. 10.)

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

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.

Powers of inspectors.
No. 54 of 1946 amended by No. 24 of 1954, s. 2.
(See No. 53 of 1915, s. 11).

12. (1) A district or special inspector shall have power 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 times by day and night, 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 mine contiguous thereto, and for the purpose of such examination or inquiry the inspector may require the attendance of any mine official or 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;
 - (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 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 times by day and night, 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 mine contiguous thereto, and for the purpose of such examination or inquiry the inspector may require the attendance of any mine official or employee, and such official or employee shall attend accordingly;
 - (d) with the authority of the State Mining Engineer, but not otherwise, to initiate and conduct prosecutions against persons offending against the provisions of this Act;
 - (e) where a district inspector is not available, or with the authority of a district 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.

Subsec. (3)
added by
No. 24 of
1954, s. 2.

(3) Where a district, special or workmen's inspector intends to enter a mine pursuant to the powers conferred by paragraph (b) of subsections (1) and (2) of this section, he shall where practicable before entering the mine give notice of his intention so to do, to either the owner, manager, assistant manager, underground manager, secretary, accountant or chief engineer of the mine.

Disqualifica-
tion of
district
inspectors.
(See No. 53
of 1915, s. 12.)

13. No person shall be qualified to be a district inspector who at the same time actually practises, 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 shareholder in any mine within the State.

Inspector
not to report
or divulge
information.
No. 54 of 1946,
s. 14
amended by
No. 24 of
1954, s. 3.
(See No. 53
of 1915, s. 13.)

14. An inspector shall not for any purpose whatever make a report of any mine or mining property or prospect, except an official report to his superior officer or the Minister, 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. Provided however that nothing in this section shall make it unlawful for a workmen's inspector to report to a Union on matters concerning safety factors and working conditions if a member of that Union is employed on the mine and the subject matter of the report concerns the member or his work on the mine.

Penalty.
(See No. 53 of
1915, s. 14.)

15. Any person who acts as a district 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 one hundred pounds, or to imprisonment, with or without hard labour, for a term not exceeding twelve months.

16. Every owner, agent, or manager of a mine who refuses or neglects to furnish to the inspector or any other person duly authorised the means necessary for making an entry, inspection, examination or inquiry under this Act in relation to such mine, shall be liable to a penalty not exceeding fifty pounds.

Penalty for refusing to give facilities for inspection.
(See No. 36 of 1906, s. 11.)

17. Any person who obstructs or uses insulting language to an inspector acting in the exercise of his duty shall be guilty of an offence against this Act.

Penalty for obstructing inspector.
(See No. 36 of 1906, s. 12.)

18. The inspector shall, after every inspection made by him, forthwith enter in a book of a type approved by the Minister to be kept at the mine, and called the "Record Book", a record of the portions of the mine inspected by him, the nature of his inspection, and every defect which he observes in the state and condition of the mine and machinery; but nothing contained in or omitted from such entry shall limit or affect the duties and obligations of the owner, agent or manager of such mine under this Act.

Inspector to record result of inspection.
(See No. 36 of 1906, s. 13.)

19. The record book shall be open at all reasonable times to the examination of the inspector and of the workers employed in the mine, and of any other person authorised by the Minister.

Record book to be open for inspection.
(See No. 36 of 1906, s. 14.)

20. (1) Any person working in a mine may make complaint to the inspector of anything which it would be the duty of such inspector to report upon or remedy.

Upon miner making complaint, inspector to make inquiry.
(See No. 36 of 1906, s. 15.)

(2) The inspector may make inquiry into such complaint, and take such other steps as he may deem necessary to investigate the matter; and the name of the informant shall not be divulged.

Power to
Minister to
appoint
special
inspector.
(See No. 36
of 1906, s.
17.)

21. The Government Geologist and any assistant geologist with such assistants as he may deem necessary may at all reasonable times, enter and inspect any mine for official purposes, provided that in all cases a responsible mine official is notified of the intention to carry out such work, and the Minister may at any time authorise any officer of his department to enter and inspect any mine, and for the purpose of every such inspection every such officer shall have all the powers and authorities conferred on inspectors of mines by this Act.

Inspector
may give
notice of
dangerous or
defective
matters not
provided for.
(See No. 36
of 1906, s. 36.)

22. In any case where an inspector finds any mine, or any part thereof, or any machine, plant, matter, thing or practice in or connected therewith to be dangerous or defective, so as, in his opinion, to threaten or tend to the bodily injury of any person or animal, and the case is not elsewhere sufficiently provided for by this Act, the following special provisions shall apply—

- (1) The inspector shall, by requisition in writing addressed in general terms to the owner, agent or manager and delivered at the mine, specify the nature of such danger or defect, together with his reason for holding that the same exists, and require that the matter complained of be forthwith remedied.
- (2) On receipt of such requisition the owner, agent or manager shall forthwith comply therewith, or, if he intends to object thereto, as provided by subsection (3) of this section, he shall cease to use the said mine or part thereof, machine, plant, matter, thing or practice, as to which such requisition shall have been given, and shall forthwith withdraw all men and animals from the danger indicated by the inspector until such time as the matter shall have been determined by arbitration, and in case of default shall be guilty of an offence against this Act: Provided that the Minister or the Inspector may allow work to proceed during such

period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing, to insure the safety of the workmen.

- (3) If the owner, agent or manager objects to comply with such requisition, he may, within seven days after the delivery thereof as aforesaid, send his objections in writing, stating the grounds of his objections to the inspector, who shall send a copy thereof to the Minister, and thereupon the matter shall be determined by arbitration.
- (4) For the purpose of such arbitration the date of the receipt by the inspector of such objection shall be deemed to be the date of the submission.
- (5) If the owner, agent or manager fails to comply with the requisition, or in the event of objection and arbitration, with the award made on arbitration, and such failure continues for fourteen days after the expiration of the time for objection or the date of the award, as the case may be, he commits an offence against this Act, and the requisition or award, as the case may be, shall be deemed to be written notice of such offence.
- (6) In any proceedings for a penalty in respect of such offence, the court, if satisfied that the owner, agent or manager has taken active measures for complying with the requisition or award, but has not, with reasonable diligence, been able to complete the works, may adjourn such proceedings, and if the works are completed within a reasonable time, no penalty shall be inflicted.
- (7) No person shall be deemed to be precluded by any contract or agreement from doing such acts as may be necessary to comply with any of the provisions of this section, or be liable under any contract or agreement to any penalty or forfeiture for doing such acts.

Arbitration.
(See No. 36
of 1906, s.
37.)

23. Every arbitration under this Act shall be conducted according to the provisions of the Arbitration Act, 1895, applicable to a reference to two arbitrators and an umpire subject as follows:—

- (1) The parties to the arbitration shall be deemed to be the owner, agent or manager of the mine on the one part, and the inspector (on behalf of the Minister) of the other part.
- (2) No person shall act as arbitrator or umpire who is employed in or interested in the mine to which the arbitration relates.
- (3) Every person who is appointed an umpire shall be a practical mining engineer, or a person experienced in the working of mines, or a Judge of the Supreme Court, or a warden or resident or police magistrate; but the fact that any umpire was not duly qualified to act under this subsection shall not be a ground for upsetting any award already made and published.

Division 3—Management.

Every mine
to be under
the control
of a
registered
manager.
(See No. 36
of 1906, s.
18.)

24. (1) Within one month after notification has been given by the inspector to the owner of a mine that a registered manager is required, and thereafter until permission of the inspector has been obtained by the owner to dispense with such manager or until the mine is abandoned, every mine shall be under the control and daily supervision of a registered manager.

Appointment
of manager
to be
notified.
(See No.
36 of 1906,
s. 19.)

(2) The appointment of every manager shall be notified, in writing by the person appointing him, to the inspector or warden of the goldfield or mineral field or the mining registrar of the district in which the mine is situated, within fourteen days after his appointment, and every fresh appointment shall be notified in a like manner.

(3) Where the mine is situated outside of a goldfield or mineral field the appointment shall be notified to the Under Secretary for Mines.

(4) If any manager is incapacitated from performing his duties, or is about to be absent from the mine for more than five days, he, or the owner or agent, shall appoint some fit person to act as deputy manager during such incapacity or absence, and shall notify such appointment to the inspector, warden, mining registrar or Under Secretary for Mines.

Deputy managers
Temporary appointment.
(See No. 36 of 1906, s. 23.)

25. (1) The underground workings of every mine employing twenty-five or more men underground shall be under the control and daily supervision of an underground manager, who may be the registered manager, and who shall be the holder of a Mine Manager's Certificate of Competency or Service under this Act, or of a certificate deemed equivalent thereto by the Board of Examiners.

Certificated underground managers.
No. 54 of 1946, s. 25 amended by No. 24 of 1954, s. 4.

(2) The underground workings of every mine employing less than twenty-five men underground shall, where required by the inspector, be under the control and supervision of an underground manager, who shall be the holder of an Underground Supervisor's Certificate of Competency or of Service under this Act or of a certificate deemed equivalent thereto by the Board of Examiners.

(3) Provided that if, for any reasonable cause, there is for the time being no certificated manager available, or if the certificated manager is incapacitated from performing his duties or is absent from the mine, the registered manager or the owner may appoint some competent person not necessarily the holder of a certificate under this Act, to be deputy underground manager until a certificated manager is available or during such incapacity or absence; and the owner, agent or manager shall forthwith notify such appointment and the reason therefor to the inspector or registrar.

Deputy underground managers.
Temporary appointments.

(4) A temporary appointment under the provisions of subsection (3) of this section shall not be made for a longer period than four weeks, except with the approval of the Minister.

Period of temporary appointment.
Subsec. (4) repealed and re-enacted by No. 24 of 1954, s. 4.

No person to act as manager of more than two mines. (See No. 36 of 1906, s. 20.)

26. No person who has been appointed registered manager of any mine in which twenty-five or more men are employed below ground shall, while he holds such appointment, be appointed or act as manager of any other mine without the sanction, in writing, of the Minister for Mines, and no person shall, without the like sanction, be appointed to act as manager of more than two mines at one and the same time.

On assuming control, manager to give notice to inspector. (See No. 36 of 1906, s. 21.)

27. Every manager shall, within seven days after he has assumed control and management of a mine, report the fact in writing to the inspector, warden or mining registrar in whose district the mine is situated, or to the Under secretary for Mines and shall, on his relinquishing office within the like period report the fact in like manner.

Penalty for working without manager or underground manager. (See No. 36 of 1906, s. 22.)

28. If any mine is worked for more than fourteen days except under the control and supervision of a manager appointed under the provisions of section twenty-four or without the appointment of a certificated manager in charge of the underground workings as provided in section twenty-five, the owner and agent of such mine shall each be liable to a penalty not exceeding ten pounds and to a further penalty not exceeding five pounds for each day during which such mine is so worked.

Notice of abandonment, etc., to be given. (See No. 36 of 1906, s. 24.)

29. Prior to total mining operations in a mine being abandoned or discontinued and prior to any mining operations in a mine being recommenced, notice of such intended abandonment, discontinuance or recommencement shall be given by the owner, agent or manager to the inspector, who shall record such fact.

Duties and responsibility of manager. (See No. 36 of 1906, s. 25.)

30. (1) The manager of every mine shall enforce the observance of all the provisions of this Act in the mine under his charge, and of all the rules and regulations applicable thereto.

(2) As soon as practicable after the occurrence of any breach of the provisions of this Act has come to his knowledge he shall report the same, in writing, to the inspector, warden, mining registrar or Under Secretary for Mines, whether the same has been committed by a person employed in the mine or by a contractor working therein or his men, or any other person.

(3) The manager, owner, and agent shall in every such case be deemed guilty of an offence against this Act unless such manager, owner, or agent reports such breach and proves to the satisfaction of the court that all reasonable means of enforcing the provisions of this Act, and of preventing such breach, were taken.

Division 4—Accidents.

31. (1) The manager shall, on the occurrence of any accident in the mine involving loss of time to the worker concerned, give notice thereof to the inspector or in the absence of the inspector, to the warden or mining registrar or Under Secretary for Mines and to the Secretary of the mining branch of the body known as the Australian Workers' Union, Westralian Branch, Industrial Union of Workers at Boulder in the State, within one week from the occurrence of such accident.

Notice of accident to be given. No. 54 of 1946 amended by No. 49 of 1954, s. 2. (See No. 36 of 1906, s. 26.)

Where an accident results in serious, or apparently serious injuries being received, it shall be reported forthwith.

(2) Any manager who omits to give such notice shall, unless such notice was given by the owner or agent, be deemed guilty of an offence against this Act.

(3) (a) For the purposes of this section "serious injury" shall be such as results in the injured person being disabled from following his ordinary occupation and earning his usual rate of remuneration for a period of two weeks or more.

(b) Any case of unconsciousness arising from inhalation of fumes or poisonous gases shall be treated as serious.

(4) The manager shall cause to be kept at the mine a book of a type approved by the Minister and called the Accident Record Book, and shall forthwith after the occurrence of any accident cause a record of such accident to be entered in such book. The accident record book shall be open at all reasonable times to the examination of the inspector, and of the accredited workers' representative, and of any other person authorised by the Minister.

Examination
and inquiry
as to cause
of accident.
(See No. 36
of 1906, s.
27.)

32. (1) Upon the receipt of any such notice and in the absence of the inspector, the warden or mining registrar may appoint any person (where practicable one experienced in mining practice) who shall proceed to the scene of the accident, examine the place where it occurred, take down the statements of any witnesses or of any persons who can give evidence as to the cause of the accident (and such statements shall not be taken in the presence of any person interested, except when dying depositions are being taken from the person injured), and thereupon forward to the warden or mining registrar a full report.

(2) For such purposes the person appointed by the warden or mining registrar shall have all the powers and authorities conferred on inspectors under this Act.

(3) The warden or mining registrar shall, if he thinks necessary, hold an inquiry into the nature and cause of the accident, and shall forward to the Minister a copy of the evidence taken at the inquiry, together with his report thereon.

(4) A representative of an industrial union of workers, representing the particular workers concerned, shall, subject to the regulations, be entitled

to examine the place where the accident occurred, and may appear at inquiries held respecting mining accidents, and shall have the right to call and examine or cross-examine witnesses.

33. For the purposes of any inquiry under the last preceding section the warden or mining registrar shall have all the powers of a court of petty sessions under the Justices Act, 1902,¹ as to summoning witnesses and taking evidence.

Power to
summon
witnesses,
etc.
(See No. 36
of 1906, s.
28.)

34. (1) The place in which any serious accident has occurred shall not be interfered with, except with a view to saving life or preventing further injury, without the written permission of the inspector or of a person appointed by the warden or mining registrar under the provisions of section thirty-two or, where the accident has proved fatal, until the coroner has granted permission.

Place of
accident
not to be
interfered
with.
(See No. 36
of 1906, s.
29.)

(2) But where immediate resumption of mining work in the place in which the accident has occurred is urgently necessary, a person appointed by the warden or mining registrar, after making full examination of the place, and a report in writing of the result of such examination in the record book, may give permission in writing for such resumption.

35. It shall be the duty of persons employed in a mine to report to the manager any accident in the mine which may come to their knowledge as soon as possible after the occurrence thereof, and any person who fails to do so shall be guilty of an offence against this Act.

Persons
employed in
mines to
report
accidents.
(See No. 36
of 1906, s.
30.)

¹ Now Justices Act, 1902-1954: See No. 35 of 1935 as amended by No. 73 of 1954, ss. 5 and 8.

Division 5—Employment.

Persons in charge of machinery not to be employed for more than eight consecutive hours on the surface or seven hours twelve minutes underground. No. 54 of 1946, s. 36 amended by No. 49 of 1954, s. 3. (See No. 36 of 1906, s. 38).

36. A person in charge of machinery, used in connection with a mine, except in the case of a breakdown or other special emergency, shall not be so employed for more than eight consecutive hours on the surface and seven and one-half hours underground and between every two periods of employment there shall be an interval of at least eight hours. The hours of work shall be inclusive of meal times, and of any time occupied in raising or exhausting steam or drawing fires in connection with the machinery in his charge.

Inspector may give permission under special circumstances for working longer than eight hours on the surface or seven hours twelve minutes underground. No. 54 of 1946, s. 37 amended by No. 49 of 1954, s. 4. (See No. 36 of 1906 s. 39.)

37. The inspector may, notwithstanding, when satisfied that there are special circumstances which necessitate the employment of such person for more than eight consecutive hours on the surface or seven and one-half hours underground give permission, in writing, for him to be employed for a specified number of hours in excess of such eight hours on the surface or seven and one-half hours underground. Any such permission shall set out the reasons for which it is granted.

No workman to be employed for more than thirteen days in a fortnight. (See No. 36 of 1906, s. 40.)

38. (1) No workman shall be employed in or about a mine for more than thirteen consecutive days in any fortnight, except in cases of special emergency.

(2) Any workman accepting employment contrary to this section, and his employer, shall each be guilty of an offence against this Act.

(3) This section shall not apply to foremen, grooms, caretakers or watchmen, nor to any person employed on Sunday solely in pumping operations.

Hours of employment below ground. No. 54 of 1946, s. 39 amended by No. 49 of 1954, s. 5. (See No. 36 of 1906, s. 41.)

39. (1) No person shall be employed to work below ground in a mine, except in cases of special emergency, for more than thirty-seven and one-half hours in any one week, or for a longer period than seven and one-half hours on any day.

(2) For the purposes of this section a person shall be deemed to be employed below ground from the time that he commences to descend a mine until he is relieved of his work and commences to return to the surface.

40. (1) No person shall be employed in any mine as manager, under-manager, platman, shift-boss, or engine-driver unless he is able to speak the English language readily and intelligibly, and to read it whether printed or written.

Employment of foreigners. (See No. 36 of 1906, s. 42.)

(2) No person unable readily and intelligibly to speak the English language shall be employed underground in any mine.

(3) The manager, owner, and agent shall be responsible for the strict enforcement of this and the four last preceding sections, and shall be deemed guilty of an offence against this Act if any breach thereof is committed.

(4) An inspector shall have full power to require the immediate dismissal of any person found working in a mine who does not, in his opinion, after examination in the presence of the manager or other responsible person, comply with the requirements of this section, and any manager failing to dismiss such person on being required by the inspector so to do shall be guilty of an offence against this Act.

(5) This section shall apply to coal mines within the meaning of the Coal Mines Regulation Act, 1946.¹

41. No boy under the age of sixteen years, and no female, shall be employed below ground in any mine.

No boy or female to be employed. (See No. 38 of 1906, s. 53.)

¹ Now Coal Mines Regulation Act, 1946-1951: See No. 26 of 1951, s. 2.

Division 6—Sunday Labour in Mines.

Prohibition of labour on mines on Sundays.
(See No. 36 of 1906, s. 43.)

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

Penalty.
(See No. 36 of 1906, s. 44.)

43. Every person who employs a workman to do work on a Sunday contrary to this Act shall be liable to a penalty not exceeding five pounds for every workman so employed; and, if the employer is the owner, agent or manager, each of them shall be severally liable to the penalty.

Exceptions.
No. 54 of 1946, s. 44 amended by No. 24 of 1954, s.5.
(See No. 36 of 1906, s. 45.)

44. Section forty-two of this Act shall not apply to the employment of persons engaged—

- (1) In connection with smelting or roasting furnaces or ore reduction plants using cyanide or chemicals in a continuous process;
- (2) as watchmen or caretakers for the protection of property in or about a mine;
- (3) in the operation of power plants and water supply;
- (4) in repairing any shaft, furnace, engine, boiler or machinery, so that the same may be in working order at the close of Sunday;
- (5) in pumping or otherwise clearing a mine from water so that work may be resumed at the close of Sunday;
- (6) 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;
- (7) in doing any work necessitated by a dangerous emergency;
- (8) in doing work authorised by an inspector, as hereinafter provided;
- (9) in cleaning spillage from a shaft.

Para (9)
added by No. 24 of 1954, s. 5.

45. 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 workmen 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 ore or mineral for purposes of sale or treatment for the mineral or metal therein contained, unless the sanction of the Minister has been first obtained.

Power to inspector to authorise Sunday labour in certain cases. (See No. 36 of 1906, s. 46.)

Permits granted in accordance with this section shall set out the nature of the work to be performed on the portion or portions of the mine, and the number of men permitted to be employed, and shall be posted at a conspicuous place at the surface brace. The inspector shall give written notice to the Industrial Union concerned of any such permits issued.

Division 7—Engine Drivers.

46. (1) Any person who—

- (a) without holding a winding engine driver's certificate under the Inspection of Machinery Act, 1921,¹ or a certificate by the same Act made equivalent thereto, takes or has charge of any winding machinery by which men and materials are raised or lowered in any shaft or under which men are working in any shaft; or
- (b) without holding a winding or first class engine driver's certificate, or certificate made equivalent thereto, under the aforesaid Act, takes or has charge of any winding machinery by which materials alone are raised or lowered in any shaft,

Engine drivers to be certificated. (See No. 36 of 1906, s. 31.)

shall be guilty of an offence against this Act.

¹ Now Inspection of Machinery Act, 1921-1954: See No. 55 of 1954, s. 1 (3).

(2) Any person who employs an uncertificated person contrary to the provisions of this section shall be guilty of an offence against this Act.

(3) This section shall apply to coal mines within the meaning of the Coal Mines Regulation Act.

(4) This section shall not apply to hoists not exceeding 12 H.P. hauling from a depth less than two hundred and fifty feet.

(5) The Minister may, by writing under his hand, exempt any person from the operation of paragraph (b) of subsection one of this section, or of section fifty-three of the Inspection of Machinery Act, 1921,¹ if satisfied that in the circumstances it is impracticable to employ a certificated engine-driver, and that all reasonable precautions are taken for safety. Such exemption shall be for a stated period not exceeding six months, but may be renewed from time to time.

Division 8—Plans.

Plans to be
furnished.
(See No. 36
of 1906, s.
48.)

47. (1) If required by the inspector, the owner, agent or manager of every mine shall keep at the office at the mine accurate plans of the workings of such mine, made from actual survey in accordance with prescribed regulations, and, at intervals of not more than six months, all additional underground workings and extensions made since the previous survey was effected shall be surveyed and delineated on the plans, and no such workings shall be filled up or allowed to fall into disrepair before they have been so surveyed and delineated.

(2) In the month of March following any such requirement the owner, agent or manager shall furnish to the Minister certified copies of such plans, showing thereon, as far as possible, all the underground workings carried out up to the preceding thirty-first day of December; and thereafter during the month of March in every year he shall furnish to the Minister copies of plans showing such work-

¹ Now Inspection of Machinery Act, 1921-1954: See No. 55 of 1954, s. 1 (3).

ings and extensions of workings as have been effected during the twelve months expiring on the next preceding thirty-first day of December.

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

(4) If, on receipt of any such plan the Minister has reason to believe that the same is incorrect or incomplete, he may, in his discretion, cause a check survey to be made of the underground workings of the mine by a mining surveyor, and if the said plan is proved to be incorrect or incomplete in any material respect, the owner, agent, or manager shall pay the cost of such survey and all expenses incurred in connection therewith, and such costs and expenses shall be recoverable as a debt due to His Majesty.

(5) The plans shall be produced at the mine to the inspector or any other officer duly authorised by the Minister, and the manager shall, if requested, mark on such plans the progress of the workings of the mine up to the time of such production, and shall allow the inspector or such other officer to examine and take a copy thereof.

(6) If the owner, agent, or manager of any mine, after being required so to do, fails to keep a plan, or wilfully refuses to produce the same or to allow it to be examined or copied under subsection (5) of this section, or knowingly conceals any part of the workings of his mine, or produces a plan imperfect or incorrect within his knowledge, he shall be guilty of an offence against this Act.

Where mine abandoned plans to be deposited with Minister.
(See No. 36 of 1906, s. 49.)

48. When any mine is abandoned, the owner, agent or manager at the time of abandonment shall cause to be made accurate plan or plans to the satisfaction of the inspector, showing the working of such mine up to the time of abandonment, which plans shall be forwarded to the Minister within one month thereafter.

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

Division 9—Miscellaneous.

Employees to satisfy themselves of safety of appliances.
(See No. 36 of 1906, s. 50.)

49. Every person employed in or about a mine shall, before commencing, and whilst at work, use ordinary and reasonable precaution to ascertain that the tubs, chains, tackle, windlass, ropes, or other appliances he uses, and the place in which he works, are not unsafe; he shall not use anything or work in a place that is unsafe, or apparently unsafe; and every such person who witnesses in or about the mine anything likely to produce danger of any kind shall forthwith report the same to the person in immediate authority over him, and it shall be the duty of such last-mentioned person forthwith to report the same to the manager, and on leaving work every person employed on a mine shall report to the man relieving him the state of that part of the works where he has been employed and in default he shall be guilty of an offence against this Act.

Failure to report danger.

Protection of abandoned shafts.
(See No. 36 of 1906, s. 51.)

50. (1) Every person, whether owner or not, who, without the consent of the inspector, after any shaft, level, drive, or excavation has become disused for mining purposes, wilfully damages, or renders it useless by the removal of any timber, fencing, casing, lining, ladder, platform, or other appliance provided in or about the same or who, removes any part of the mound or dump at the mouth of any such shaft so as to lessen or destroy its usefulness in protecting persons and animals from falling into such shaft, shall be guilty of an offence against this Act.

(2) The court may order any person convicted of an offence under this section to repair or replace any such timber, fencing, casing, lining, ladder, platform, mound, or dump or other appliance damaged or removed, and in default to pay to the Minister damages to be assessed by the Court.

(3) This section shall not apply to any owner of freehold land, whereon any such shaft is situated.

51. The owner, agent and manager of every mine shall, when required by the inspector, fence or securely cover in or fill with earth or rock every abandoned or disused shaft or dangerous costeen and indicate its position on the surface by a post with a notice affixed thereon, and such owner, agent, and manager respectively shall remain personally responsible for the due carrying out of this provision until a certificate has been obtained from the inspector that the work has been properly executed, notwithstanding that in the meantime the property has been abandoned.

Responsibility as to fencing and filling in abandoned shaft, etc. (See No. 36 of 1906, s. 52.)

52. The Minister may cause the report of any inspector, or check inspector, or of any court of inquiry or other court on whom any powers are conferred by this Act, to be published at such time and in such manner as he may think fit.

Minister may publish report. (See No. 36 of 1906, s. 54.)

53. The record book to be kept at every mine shall be kept solely for the purpose of entering therein the reports and records required by this Act, and it shall be kept in good order and condition, and all entries therein shall be written in ink.

Record book, how to be kept. (See No. 36 of 1906, s. 56.)

54. Any person who contravenes or does not comply with any of the provisions of this Act, and any person in charge of machinery or other property which is damaged or destroyed as a result of his negligence, and any person who by his negligence causes personal injury to, or endangers the safety of any person or causes risk or likelihood of damage to any machinery or other property, shall be deemed guilty of an offence against this Act.

What are offences against this Act. (See No. 36 of 1906, s. 57.)

General penalty.
(See No. 36 of 1906, s. 58.)

55. Any person who is guilty of an offence against this Act, for which no specific penalty is herein provided, shall be liable to a penalty not exceeding, if he is the owner, agent or manager of a mine, fifty pounds, and if he is any other person, ten pounds for each offence.

Proceedings to be taken by inspector.
(See No. 36 of 1906, s. 59.)

56. All proceedings for offences under this Act shall be taken by the inspector or by some officer authorised by the Minister. All costs incurred by or awarded against any inspector or such officer in connection with any such proceedings shall be payable out of moneys from time to time appropriated by Parliament, and the inspector or officer shall not be personally responsible for the same.

Hearing of proceedings.
(See No. 36 of 1906, s. 60.)

57. All proceedings taken for offences under this Act shall be heard before the warden of the goldfield or mineral field or the resident magistrate of the district in which the offence is alleged to have occurred and the provisions of the Justices Act, 1902,¹ so far as applicable shall apply to every such proceedings as if it were a proceeding in case of a simple offence or breach of duty under that Act.

Limit of time for proceedings in respect of offences.
(See No. 36 of 1906, s. 61.)

58. All informations and proceedings in respect of offences against this Act shall be commenced within six months after the offences thereby respectively charged shall have been committed.

Application of penalties.
(See No. 36 of 1906, s. 62.)

59. (1) Where a penalty is imposed under this Act for any offence against this Act which has occasioned loss of life or personal injury, the court may, if it thinks fit, direct such penalty, or any portion thereof, to be paid to the person or distributed among the persons injured, or the relatives of any person whose death may have been occasioned by the act or omission constituting such offence.

¹ Now Justices Act, 1902-1954: See No. 35 of 1935 as amended by No. 73 of 1954, ss. 5 and 8.

Provided that—

- (a) such person or persons did not, in its opinion, commit, and were not parties to committing, the offence: and
- (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 upon the act or omission constituting the offence.

(2) Nothing in this Act contained shall confer on any person a right of action which would not have accrued to him if this Act had not been passed.

60. Any notice required under this Act to be delivered to or served upon the owner, agent, or manager of any mine shall be deemed to be duly delivered or served if sent by registered letter addressed to his usual or last known place of address.

Service of notices.
(See No. 36 of 1906, s. 64.)

61. (1) The Governor may make regulations for all or any of the purposes following, that is to say—

Power to make regulations.
(See No. 36 of 1906, s. 63.)

- (a) Regulating the duties of inspectors and defining the districts in which they are to carry out their duties.
- (b) Regulating methods of inspection of mines.
- (c) Dealing with the duties of managers and underground supervisors under this Act.
- (d) Dealing with the examination and issuance of certificates to managers and underground supervisors under this Act and the constitution of a Board of Examiners therefor and the registration of managers and underground supervisors to whom such certificates have been issued.
- (e) Dealing with the use of explosives in mines, including—
 - (i) methods of storing and handling explosives in mines;

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- (ii) the removal or destruction of fumes from explosives by the use of liquid sprays or other means;
 - (iii) the testing of explosives before they are permitted to be used in mines to ascertain the fumes produced therefrom;
 - (iv) the time that must elapse before men return to a place where shots have been fired;
 - (v) the times at which it is permissible to fire shots in mines;
 - (vi) the strength of detonators to be used with different varieties of explosives;
 - (vii) the persons who shall be allowed to charge and fire charges of explosives and the methods that shall be employed in doing so;
 - (viii) methods of dealing with misfires;
 - (ix) any other matters relating to the use of fuses, explosives and detonators in mines.
- (f) Dealing with all matters connected with the safety and protection of men working in or about mines.
- (g) Dealing with protective clothing, safety appliances and equipment for use in and about mines.
- (h) Dealing with the fencing, securing and protection of shafts and entrances.
- (i) Dealing with all matters connected with ladders and travelling ways in or about mines.
- (j) Dealing with all matters connected with winding, winding engines, signals and testing of winding ropes in or about mines.

- (k) Dealing with the employment and training of persons having charge of winding machinery, and providing for their periodical medical examination.
- (l) Dealing with cages or skips, safety hooks, safety grippers and all other matters connected with the proper and safe running of cages and skips in shafts.
- (m) Dealing with all matters connected with mechanical transport underground.
- (n) Dealing with the maintenance of machinery in mines.
- (o) Dealing with wilful damage to or unauthorised removal of timber, equipment, machinery or other appliance or thing provided in a mine for the proper working thereof.
- (p) Dealing with lighting in and about a mine.
- (q) Dealing with the ventilation of mines, including—
 - (i) the methods by which the air in mines shall be tested with regard to its adequacy in quantity, purity, temperature and humidity;
 - (ii) the methods by which constancy in direction of air currents may or shall be produced in mines;
 - (iii) the conditions under which disused portions of mines may or shall be sealed off from the ventilation system thereof, and when and in what manner they shall be ventilated;
 - (iv) the keeping of records of the state of ventilation in all parts of mines and plans showing the position of all air-doors and ventilating appliances and the direction of air currents;
 - (v) the conditions under which the use of mechanical appliances to assist ventilation shall be compulsory;

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- (vi) the conditions under which tailings from cyanide or other chemical process may be used for the filling of stopes;
 - (vii) the prevention of the escape of poisonous or deleterious gases and fumes from any chemical or metallurgical process in use on mines;
 - (viii) the use of compressed air for ventilating purposes, especially with regard to the supply being drawn from an unvitiated source, and the prevention of vitiation in the compressor, receiver and pipe lines;
 - (ix) any other matters relating to the ventilation of mines.
- (r) Dealing with the prevention and laying of dust in mines, including—
- (i) the use of water sprays, atomisers and other damping appliances in working places, especially while boring;
 - (ii) the use of apparatus for collecting and filtering dust and the use of respirators.
- (s) Dealing with the connection of workings for ventilation purposes, including—
- (i) the sinking of winzes in mines concurrently with shaft sinking;
 - (ii) the connection of adjoining mines by crosscuts and levels;
 - (iii) the connection of various workings in the same mine by crosscuts, levels, winzes and rises;
 - (iv) the heights to which rises may be carried and the methods to be used in rising and the distances permissible between higher and lower levels and between air connections from one level to another.

- (t) Dealing with the age limits of workers for certain classes of employment.
- (u) Dealing with sanitary conditions of mines and hygiene, including—
 - (i) the construction and position of sanitary conveniences on the surface and underground, the use of deodorants and disinfectants therewith, the number of men allowed to use each pan, the times and methods of cleaning pans and privies;
 - (ii) the regulation of crib places underground, the disposal of waste food and the cleaning of such places;
 - (iii) the removal and destruction of waste timber, refuse from underground stables and refuse of all sorts liable to vitiate the air;
 - (iv) the removal of stagnant water underground;
 - (v) the provision of change houses, their construction and material, the space to be allowed for each person, baths, washing appliances, the destruction of old clothes and drying of clothes;
 - (vi) examination and exclusion from mines of persons likely to be infected with ankylostomiasis, tuberculosis or other transmissible diseases;
 - (vii) the provision of pure water underground for drinking.
- (v) Dealing with the medical examination of men employed or proposed to be employed in and about mines, and prescribing the methods to be employed for the prevention of silicosis or other occupational diseases affecting or likely to affect such men and regulating and where considered necessary prohibiting the employment of any persons affected by any such disease.

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- (w) Dealing with the provision of shelter for surface workers.
- (x) Dealing with the notification and recording of accidents.
- (y) Dealing with the provision of ambulance rooms with such attendants and such first aid facilities for use in case of accident as may be required by the Minister.
- (z) Dealing with the installation and use of electricity in mines.
- (za) Dealing with the making of plans and surveys of mines.
- (zb) All other matters connected with the regulation of mines and the working thereof not expressly provided for by the provisions of this Act.

(2) Any such regulations may be made applicable generally to all mines in the State or mines within any particular district of the State, or to particular mines within any district, and they may impose a penalty for the breach of any such regulation not exceeding twenty pounds.

(3) Before any regulation or by-law or amendment of any regulation or by-law is made under or by virtue of this Act, a copy of such regulation or by-law or amendment shall, where practicable, first be submitted to the Chamber of Mines and the Mining Branch of the Australian Workers' Union.

(4) The Governor may declare any such regulations to be General Rules and for the purpose of making the provisions of all such General Rules known to all persons employed in and about each mine, a copy of the same, supplied on the application of the owner or manager of a mine by the inspector of the district on behalf of the Minister, shall be published as follows—that is to say the owner or manager of the mine shall cause a correct copy in legible characters of all such General Rules to be posted up in some conspicuous place at or near the mine where they may be conveniently read by the

persons employed in and about such mine, and so often as the same may become defaced, obliterated or destroyed shall cause them to be renewed with all reasonable despatch.

(5) Notwithstanding the provisions of section two of this Act the General Rules enacted by the Mines Regulation Act, 1906-1938, and any alterations or variations of the same which the Governor may have made or may have purported to make under the provisions of that Act shall until otherwise provided by regulations made under this section be deemed to be regulations and General Rules made under this Act.

SCHEDULE.

Date of Act.	Short Title.
6° Edw. VII., No. XXXVI.	The Mines Regulation Act, 1906.
5° Geo. V., No. 53	The Mines Regulation Amendment Act, 1915.
2° and 3° Geo. VI., No. XLII.	The Mines Regulation Amendment Act, 1938.
9° Geo. VI., No. II.	The Mines Regulation Act Amendment Act, 1945.