

WESTERN AUSTRALIA.

MINES REGULATION.

10° and 11° Geo. VI., No. LIV.

No. 54 of 1946.¹

(Affected by No. 113 of 1965.²)

[As amended by:

- No. 24 of 1954, assented to 8th October, 1954;
- No. 49 of 1954, assented to 8th December, 1954;
- No. 54 of 1956, assented to 27th December, 1956;
- No. 75 of 1961, assented to 28th November, 1961;³
- No. 6 of 1965, assented to 15th September, 1965;
- No. 68 of 1968, assented to 18th November, 1968;
- No. 100 of 1969, assented to 25th November, 1969;
- No. 94 of 1972, assented to 4th December, 1972;⁴
- No. 63 of 1974, assented to 9th December, 1974.⁵

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

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

Long title.
Amended by
No. 63 of
1974, s. 3.

[Assented to 24th January, 1947.]

BE it enacted—

1. This Act may be cited as the *Mines Regulation Act, 1946-1974*, and shall come into operation on a day to be fixed by proclamation.¹

Short title.
Amended by
No. 63 of
1974, s. 1.

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 The Acts specified in the Schedule hereto are hereby repealed.

Repeal.

¹ Came into operation on 1st May, 1949: See *Gazette* 4th April, 1949, p. 731.

² Decimal Currency Act, 1965.

³ Came into operation on 23rd February, 1962: See *Gazette* 23rd February, 1962, p. 514.

⁴ Metric Conversion Act, 1972. Amendments included in this reprint effective from 1st January, 1973: See Notice *Gazette* 29/12/72, p. 4811.

⁵ Came into operation on 5th April, 1976: See *Gazette* 26th March, 1976, p. 858.

Divisions.
Amended by
No. 63 of
1974, s. 4.

3. This Act is divided into Divisions as follows—

- DIVISION 1—PRELIMINARY, ss. 4-5.
 DIVISION 2—INSPECTION, ss. 6-23.
 DIVISION 2A—HEALTH, ss. 23A-23F.
 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 AND MACHINERY
 OPERATORS, ss. 46-46A.
 DIVISION 8—PLANS, ss. 47-48.
 DIVISION 9—MISCELLANEOUS, ss. 49-61.

DIVISION 1.—PRELIMINARY.

Interpreta-
tions.
Amended by
No. 68 of
1968, s. 2;
No. 100 of
1969, s. 2;
No. 94 of
1972, s. 4;
No. 63 of
1974, s. 5.
(See No. 36
of 1966, s. 3.)

4. (1) 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;

“blasting agent” has the same meaning as it has in and for the purposes of the Explosives and Dangerous Goods Act, 1961;

“explosives” has the same meaning as it has in and for the purposes of the Explosives and Dangerous Goods Act, 1961;

“foreman” in relation to underground means a person directly responsible to the underground manager or superintendent and having, under the direction of that manager or superintendent, immediate charge of supervisors, shift bosses, and mining operations;

“hoist” means a single undivided drum winding engine driven by a motor or engine having a capacity not exceeding twenty kilowatts;

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

“machinery” means every steam engine, motor or other source of motive power, and every machine, shafting, belt, gearing, pulley, flywheel, lift, crane, contrivance, or appliance driven by such engine or power and includes boilers and air receivers but not hand guided rock drills or small hand held power tools;

“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 where any operation to obtain any rock, metal, mineral or mineral substance for commercial purposes or for subsequent use in industry has been, is being, or is to be carried on, or where the products of such a place are transported, treated or otherwise dealt with and includes pellet plants, sinter plants, smelter and blast furnaces, privately owned railways built to transport the mine ore or material and the ore storage at the rail terminal, and quarries, together with any project for the time being declared to be a mine pursuant to subsection (2) of this section, but does not include steel making plants, rolling mills, administration offices, residential areas or recreational centres and the ground used in connection therewith;

“mineral” does not include natural gas and mineral oil in the free state;

“Mines Medical Officer” means a Medical Officer for the time being appointed to and employed in that office under this Act;

Mines Regulation.

“mining” or “to mine” means to drill, blast, 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 for the purpose of prospecting, developing or working a mine or quarry;

“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;

“quarry” means a mine which is worked as a clay pit, sand pit, gravel pit, borrow pit, or open cut mine not being worked in conjunction with underground mining, or where ore or rock is being mined or broken by jets of water or like material, or in like manner, and also means an excavation where any operation is carried on for the purpose of obtaining mineral or rock for commercial purposes or subsequent use in industry and it includes works, machinery, and plant used in connection with such operations on the site, the excavation or elsewhere, and also includes any place on

which any product of those operations is stacked, stored or otherwise treated and which adjoins the site or excavation but does not include a plant used for making bricks, tiles, or similar products, and the word "quarrying" has a corresponding meaning;

"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;

"rock" means any portion of the earth's crust whether consolidated or not;

"section" means a section of this Act;

"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;

"shift boss" in relation to underground or to a quarry means a person, not being the foreman, having immediate supervision of men and direction of mining operations but being under the direction of the underground manager, underground superintendent, underground foreman, or quarry manager, as the case may be;

"supervisor" has the same meaning as "shift boss";

"tunnel" or "adit" means any opening into a mine having an inclination to the horizontal of less than fifteen degrees

through which men travel or materials are transported or which is used as a main intake or outlet for ventilation or other purposes;

“underground” means any mine workings beneath the natural surface of the earth which are covered overhead by natural rock or earth, or by any earth, rock, fill, timber or other material placed in the course of mining operations, and it includes tunnels, adits, drifts, shafts, and winzes over two metres deep sunk from the surface that are used in mine workings;

“underground manager” means the manager having under the general direction and control of the registered manager, the immediate direction and control of underground operations of a mine;

“underground superintendent” means an underground manager or assistant underground manager of a mine or section of it, to whom the underground foreman, underground shift boss or underground supervisor is responsible;

“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.

(2) The Governor may by notice in the *Gazette* declare any surface or underground excavation, shaft or tunnel constructed for purposes other than those set out in the interpretation of the word “mine” to be a project which is classed as a mine for the purposes of this Act during any period of the construction of that project, and may in that notice exempt that project from the provisions of this Act specified in the notice and prescribe conditions under which the project may be carried on, and thereupon the provisions of this Act shall apply to that project according to the tenor of the notice so published.

(3) A declaration made under subsection (2) of this section by virtue of which any project is classed as a mine for the purposes of this Act, shall not operate to classify that project as a mine to which this Act applies for the purposes of section seven of the Construction Safety Act, 1972, or the provisions of any other Act.

(4) In certain provisions of this Act reference is specifically made to a quarry or to quarry workings, but the fact that a quarry or quarry workings are not specifically referred to in relation to any provision shall not be construed as excluding a quarry or quarry workings from that provision.

4A. The provisions of this Act shall not be construed as limiting or affecting the provisions of any other Act relating to the inspection or safety of machinery.

Machinery safety. Added by No. 63 of 1974, s. 6.

5. (1) This Act shall not apply to any coal mine within the meaning of the Coal Mines Regulation Act, 1946.

Exemptions. Amended by No. 63 of 1974, s. 7. (See No. 36 of 1966, s. 4.)

(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.—INSPECTION.

Heading. Substituted by No. 63 of 1974, s. 8.

6. (1) 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.

Appointment of inspectors of mines. Amended by No. 63 of 1974, s. 9. (See No. 53 of 1915, s. 5.)

(2) A person who for the time being holds or is acting in the office of State Mining Engineer or the office of Assistant State Mining Engineer has, and

may at any time exercise, the powers of a district inspector under this Act.

Control.
Amended by
No. 63 of
1974, s. 10.
(See No. 53 of
1915, S. 6.)

7. Every inspector of mines shall be under the control of the person for the time being holding or acting in the office of State Mining Engineer, and shall act in such districts, portions of districts, or mines, as the Minister may from time to time direct.

Classification
of inspectors.
Amended by
No. 54 of
1956, s. 2;
No. 75 of
1961, s. 3;
No. 63 of
1974, s. 11.
(See No. 53
of 1915, s. 7.)
"This Act"
includes
regulations.
(See Act
No. 30 of
1918.)

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

- (1) District inspectors, who have the same powers as inspectors under this Act; but a person shall, before he is appointed a district inspector, satisfy the Minister that he is the holder of a First Class Mine Manager's Certificate of Competency 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 current Mine Worker's Health Certificate under this Act, 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.

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

10. All the terms and conditions of appointment and employment 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.

Conditions of appointment of special and workmen's inspectors. Amended by No. 63 of 1974, s. 12. (See No. 53 of 1915, s. 9.)

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

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

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 district or special inspector shall have power to do all or any of the following things namely:—

Powers of inspectors. Amended by No. 24 of 1954, s. 2; No. 68 of 1968, s. 3; No. 63 of 1974, s. 13. (See No. 53 of 1915, s. 11.)

- (a) To make examination and inquiry to ascertain whether the provisions of this Act affecting any mine are complied with and, where any such provision is not being complied with and in the opinion of that inspector such non-compliance could threaten or tend to the bodily injury of any person employed in that mine or part of that mine, to stop the work in, and order the removal of any person from, that mine or part of the mine until the provisions of this Act are complied with and the hazard removed;

Mines Regulation.

- (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 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 and, where any such provision is not being complied with underground or in a quarry excavation and in the opinion of that inspector such non-compliance could threaten or tend to the bodily injury of any

person employed in that mine or part of that mine, to stop the work in, and order the removal of any person from, that mine or part of the mine until the provisions of this Act are complied with and the hazard removed;

- (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 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.

(3) Where a district, special or workmen's inspector intends to inspect and examine a mine pursuant to the powers conferred by paragraph (b) of subsections (1) and (2) of this section, he shall where practicable on 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.

(4) Where the provisions of any Act relating to the inspection or safety of machinery are applicable to any machinery used in the working of a mine to which that Act applies, and an Inspector of Machinery appointed under the provisions of that Act is not available, a district inspector may exercise all the powers of an Inspector of Machinery so appointed in respect to that machinery but shall as soon as practicable thereafter report the matter to the Chief Inspector of Machinery appointed under that Act.

Misuse of
information.
Repealed
and
re-enacted by
No. 63 of
1974, s. 14.

13. A person holding or acting in the office of an inspector under this Act shall not use for the purpose of personal gain any information that comes to his knowledge in the course of, or by reason of, his employment as such an inspector.

Inspector
not to report
or divulge
information.
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.
Repealed
and
re-enacted by
No. 63 of
1974, s. 15.

15. A person who contravenes the provisions of section 13 or section 14 shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one thousand dollars, or to imprisonment for a term not exceeding two years, or to both such penalty and imprisonment.

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 five hundred dollars.

Penalty for refusing to give facilities for inspection. Amended by No. 113 of 1965, s. 8; No. 63 of 1974, s. 16. (See No. 36 of 1906, s. 11.)

17. (1) 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. Amended by No. 63 of 1974, s. 17. (See No. 36 of 1906, s. 12.)

(2) A person who fails to give to any person acting in the execution of this Act any assistance which that person may reasonably request him to give, or any information which that person is expressly authorised by this Act to call for or may reasonably require, or who, when required to give any such information, knowingly makes any false or misleading statement in relation thereto, shall be guilty of an offence against this Act.

(3) Any statement made pursuant to any requirement made under this Act, shall not, if the person making the statement objected, at the time of making it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against the person for any offence not being the offence of contravening or failing to comply with the provisions of this section.

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.)

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

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.

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

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.

(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. Amended by No. 63 of 1974, s. 18. (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 may require the attendance of any mine official and that person shall attend accordingly.

Inspector may give notice of dangerous or defective matters not provided for. Amended by No. 68 of 1968, s. 4; No. 63 of 1974, s. 19. (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 mining practice in or connected therewith to be dangerous or defective or likely to be dangerous or defective, so as, in his opinion, to threaten or tend to the bodily injury of any person, 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 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.
Amended by
No. 68 of
1968, s. 5.
(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 stipendiary 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 2A.—HEALTH.

Heading.
Added by
No. 63 of
1974, s. 20.

23A. The Minister may appoint fit and proper persons as Mines Medical Officers and such other medical officers as he thinks fit for the purposes of this Act, and shall issue to any such person a certificate in writing of his appointment.

Medical
Officers.
Added by
No. 63 of
1974, s. 20.

23B. (1) Regulations may provide that any person who is found to have pneumoconiosis or to be suffering from active pulmonary tuberculosis or to be otherwise medically unsuitable for specified employment shall not be so employed in or about any mine.

Occupational
health.
Added by
No. 63 of
1974, s. 20.

(2) A Mines Medical Officer shall in the prescribed manner make provision for the periodic medical examination of persons, for the issue of prescribed certificates and notices consequential upon the result of any such examination, for the exemption from specified requirements of persons who have special professional or scientific qualifications or training for work of a specific nature or who for other sufficient reason are not to be subject thereto, and generally for the prevention of occupational diseases.

23C. (1) To deal with all matters connected with the safety and protection of persons working in or about mines in so far as those matters relate to ventilation or environmental atmospheric control and the health of persons, there shall be a body of persons having relevant experience in ventilation technology in whom shall be vested a discretionary authority to advise and consult with all parties interested, to consider proposals, make recommendations, and, where necessary, give directions and determine disputes.

Ventilation
Board.
Added by
No 63 of
1974, s. 20.

(2) The body referred to in subsection (1) of this section shall be known as the Ventilation Board, and the membership of that Board shall consist of—

- (a) the person holding or acting in the office of State Mining Engineer, who shall be chairman;
- (b) the person holding or acting in the office of Senior Inspector of Mines for the State; and
- (c) three persons appointed by the Minister, of whom—
 - (i) one shall be an Inspector of Mines having specialised training in ventilation technology;
 - (ii) one shall be a medical practitioner having specialised experience in occupational health problems relevant to the mining industry, nominated by the Commissioner of Public Health; and
 - (iii) one shall be a scientific officer having duties under the provisions of the Clean Air Act, 1964, nominated by the Commissioner of Public Health.

(3) A member of the Board may nominate a person to act as his deputy, and may terminate such an appointment at any time, but a person so nominated is, in the event of the absence from a meeting of the Board of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, has all the powers and duties of a Board member.

(4) A quorum of the Board shall be constituted by the chairman and two other members, of whom one shall be a member nominated by the Commissioner of Public Health.

(5) 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.

(6) The Board may co-opt any person having relevant specialised knowledge or experience, but a person so co-opted is not entitled to a vote.

23D. (1) The functions of the Ventilation Board shall include—

Functions
of the
Ventilation
Board
Added by
No. 63 of
1974, s. 20.

- (a) advising the Minister generally on mine ventilation and related matters including—
 - (i) the standards of purity for ventilating air to be breathed by workmen in or about mines;
 - (ii) the instruments and methods to be used in or about mines to determine the concentration of dust and other atmospheric contaminants, temperatures and velocities of air flow;
 - (iii) the training of ventilation officers and cadets;
 - (iv) the standard of qualification required of a ventilation officer for a mine; and
 - (v) laboratory and library facilities;
- (b) the power to give advice and, where necessary, directions to the owners, agents or managers of mines and quarries specifying the remedial action required to suppress dust emissions;
- (c) a discretionary authority to impose requirements less stringent than those which would otherwise be required under the regulations in relation to the standards of dust concentration in surface workings having regard to location, availability of water and other resources, the duration of the working and other factors where in the

opinion of the Board the requirements otherwise imposed under the regulations are impracticable in a particular circumstance;

- (d) the power to hear and adjudicate on appeals in regard to disputes on the adequacy of mine ventilation, the control of dust and other atmospheric contaminants, and the efficiency and adequacy of instruments and monitoring devices used with respect to the control of dust and contaminants on mines as required by the regulations;
- (e) a duty to receive and consider submissions of a technical nature from interested parties on matters related to ventilation and environmental atmospheric control in mines, and to advise the Minister and other interested parties of the Board's view thereon;
- (f) co-operating with officers appointed under the Clean Air Act, 1964, to ensure that adequate provision is made in and on mines to prevent the emission of dust or atmospheric contaminants which may endanger the health of or be a nuisance to the public;
- (g) providing co-ordination between the Department of Public Health and the Mines Department on matters concerning the health of employees on mines; and
- (h) the classification of mines according to the provisions of the regulations relating to occupational disease.

(2) In exercising the function of imposing requirements less stringent than the requirements otherwise imposed by the regulations in relation to the standards of dust concentration in surface workings the Board may, as a condition of the application of those less stringent requirements, by a direction in writing require the owner, agent or manager of a mine or quarry to

undertake corrective works to reduce and control dust emissions, either of a nature specified by the Board or such as are adequate to attain a standard required by the Board, within a period specified by the Board.

(3) Requirements imposed by the Board under this section shall have effect in lieu of the more stringent requirements that would otherwise be imposed by the regulations in relation to the standards of dust concentration in surface workings, but where in the opinion of the Board any corrective works required under subsection (2) of this section are not being undertaken in a satisfactory manner the discretionary relaxation of the requirements of the regulations permitted by the Board may, by notice in writing, be terminated.

23E. (1) Where a dispute arises from a decision made by an Inspector with regard to the adequacy or standard of dust control or ventilation, or any of such matters, on or in a mine, the Manager or other party concerned shall abide by the Inspector's decision but may appeal to the Senior Inspector for the district.

Disputes.
Added by
No. 63 of
1974, s. 20.

(2) If the dispute is not resolved by the decision made by the Senior Inspector a person aggrieved may within seven days thereafter appeal to the Ventilation Board.

23F. (1) An appeal to the Ventilation Board shall be instigated by the appellant notifying the Secretary to the Board, in writing, within seven days from the date of receiving the decision given by the Senior Inspector, of his intention to appeal to the Board.

Appeals to
the
Ventilation
Board.
Added by
No. 63 of
1974, s. 20.

(2) On receipt of a notice under subsection (1) of this section the Secretary shall fix a date as soon as practicable thereafter for the hearing of the appeal and shall notify the appellant accordingly.

(3) The appellant shall serve on the other parties to the dispute, and on such other persons as the

Secretary to the Board may direct, a notice of the appeal stating where and when it is to be heard and unless the Secretary to the Board otherwise directs there must be at least seven clear days between the service of the notice and the date fixed for the hearing.

(4) Any party to the dispute shall, when requested, appear before the Ventilation Board and the Board may hear such further or other persons as the Board thinks fit.

(5) On the hearing of the appeal the Board may make such order, including an order as to costs and charges, in the matter as the Board thinks fit, and the order so made shall be conclusive and binding on the parties.

(6) Where the Board determines that any appeal was trivial the Board, with the approval of the Under Secretary for Mines, may order the appellant to pay the whole or a proportion of the costs of the appeal forthwith.

(7) Any costs or charges relating to an appeal as to which the Board has made no order shall be rendered to the Under Secretary for Mines who, if he considers them reasonable, may apportion them for payment as between the Mines Department and the parties to the appeal in such manner as he thinks just, and any such costs or charges so apportioned may be recovered as a simple contract debt in any court of competent jurisdiction.

DIVISION 3.—MANAGEMENT.

Every mine to be under the control of a registered manager. Amended by No. 68 of 1968, s. 6; No. 63 of 1974, s. 21. (See No. 36 of 1906, s. 18.)

24. (1) Where twenty-five or more persons are employed in the underground or quarry workings of any mine and in any other case within one month after notification has been given by the district inspector to the owner of a mine that a registered manager is required, and thereafter until permission of the district 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 who shall reside in the district in which the mine is situated, but where the workings of the mine are situated in more than one district the manager shall reside in one of those districts.

(2) The appointment of every registered manager shall be notified, in writing by the person appointing him, to the district inspector 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.

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

(3) [*Repealed by No. 68 of 1968, s. 6.*]

(4) Subject to subsection (5) of this section, when the registered manager is to be absent from the mine for one day or more he shall nominate some fit and proper person to act as his deputy during his absence.

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

(5) If the registered 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 and proper person to act as deputy registered manager during such incapacity or absence and shall forthwith notify in writing such appointment to the district inspector of the district in which the mine is situated.

25. (1) Subject to subsection (7) of this section, 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 First Class Mine Manager's Certificate of Competency under this Act or a certificate that is deemed equivalent thereto by the Board of Examiners established under this Act.

Certificated underground managers. Amended by No. 24 of 1954, s. 4; No. 75 of 1961, s. 4; No. 68 of 1968, s. 7; No. 100 of 1969, s. 3; No. 63 of 1974, s. 22. "This Act" includes regulations. (See Act No. 30 of 1918.)

"This Act"
includes
regulations.
See Act No.
30 of 1918.

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

(3) [*Repealed by No. 68 of 1968, s. 7.*]

(4) [*Repealed by No. 68 of 1968, s. 7.*]

(5) Subject to subsection (7) of this section, if twenty-five men or more are employed in or about a quarry by the owner of the quarry, the quarry shall be under the control and daily supervision of a quarry manager, who may be the registered manager and who shall be a holder of a First Class Mine Manager's Certificate of Competency under this Act, a Quarry Manager's Certificate of Competency or of Service under this Act, or a Certificate that is deemed equivalent thereto by the Board of Examiners established under this Act but, where explosives are not used in the quarry, it shall be sufficient if the quarry manager is the holder only of a restricted Quarry Manager's Certificate of Competency or Service under this Act or a Certificate that is deemed equivalent thereto by the Board of Examiners established under this Act.

(6) If less than twenty-five men are employed in or about the quarry by the owner of the quarry, where required by a district inspector in the district wherein the quarry is situated, the quarry shall be under the control and daily supervision of a quarry manager, who may be the registered manager and who shall be the holder of a First Class Mine Manager's Certificate of Competency under this Act, a Quarry Manager's Certificate of Competency or of Service under this Act, a restricted Quarry Manager's Certificate of Competency or of Service

under this Act, or a Certificate that is deemed equivalent thereto by the Board of Examiners established under this Act.

(6a) Where in any mine the workings, whether underground or quarry workings, extend over or are separated by such a distance that control and daily supervision by the one certificated manager is, in the opinion of the State Mining Engineer, inadequate, the State Mining Engineer may require that a properly certificated manager be appointed by the owner or registered manager of that mine to control and supervise such of those workings as the State Mining Engineer may specify, and thereupon a certificated manager shall be so appointed to each working so specified.

(7) If, at a mine employing twenty-five or more men underground, for any reasonable cause there is not for the time being the required certificated underground manager available, or if he is incapacitated from performing his duties or is absent from the mine, the registered manager or owner may, subject to subsection (8) of this section, appoint some competent person who is the holder only of an Underground Supervisor's Certificate of Competency under this Act, or a certificate that is deemed equivalent thereto by the Board of Examiners established under this Act, to be deputy underground manager during the period that the required certificated underground manager is not available, or is so incapacitated or so absent, and the owner, agent or manager shall forthwith notify the district inspector of the district wherein the underground workings are situated of the appointment and the reason for it.

(7a) If, at a quarry where twenty-five men or more are employed in or about the quarry by the owner of the quarry, for any reasonable cause there is not for the time being the required certificated quarry manager available, or if he is incapacitated from performing his duties or is absent from the quarry, the registered manager or owner may, subject to subsection (8) of this section, appoint

some competent person who is the holder only of a restricted Quarry Manager's Certificate under this Act, or a certificate that is deemed equivalent thereto by the Board of Examiners established under this Act, to be deputy quarry manager during the period that the required certificated quarry manager is not available, or is so incapacitated or so absent, and the owner, agent or manager shall forthwith notify the district inspector of the district wherein the quarry is situated of the appointment and the reason for it.

(8) Except with the approval of the Minister, an appointment pursuant to subsection (7) or subsection (7a) of this section shall not be made for a period exceeding four weeks.

No person to act as manager of more than two mines. Repealed and re-enacted by No. 63 of 1974, s. 23.

26. No person who has been appointed registered manager of any mine or quarry shall, whilst he holds that appointment, be eligible to be appointed or to act as the registered manager of any other mine or quarry without the written approval of the Minister.

On assuming control manager to give notice to inspector. Repealed and re-enacted by No. 68 of 1958, s. 8. Amended by No. 63 of 1974, s. 24.

27. (1) Every registered manager shall, within a period of seven days after he has assumed control and management of a mine, report the fact in writing to a district inspector acting in the district wherein the mine is situated.

(2) Every underground manager and quarry manager shall within a period of seven days after he has assumed control and daily supervision of the underground workings of a mine or the working of a quarry, as the case may be, report the fact in writing to the district inspector of the district wherein the mine or quarry is situated.

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

Penalty for working without manager or underground manager. Amended by No. 113 of 1965, s. 8; No. 68 of 1968, s. 9; No. 63 of 1974, s. 25. (See No. 36 of 1906, s. 22.)

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

Notice of commencement, discontinuance, etc. Repealed and re-enacted by No. 63 of 1974, s. 26.

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 regulations applicable thereto.

Duties and responsibility of manager. Amended by No. 68 of 1968, s. 10; No. 63 of 1974, s. 27. (See No. 36 of 1906, s. 25.)

(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 district inspector, 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) Where an offence against this Act or any regulation made thereunder is committed by a person and the owner, agent or manager is proved knowingly to have permitted or employed that person to commit the offence, or where the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, the owner, agent, manager or

supervisor, or any person who was purporting to act in that capacity, he as well as the person who committed the offence shall be deemed to be guilty of the offence and each of them shall be severally liable to the penalty.

(4) It shall be a defence for any person who would otherwise be liable under this section to prove that he had taken all reasonable means to enforce the provisions of this Act and that the contravention or non-compliance occurred without his consent or connivance and that he exercised all due diligence to prevent it.

"This Act" includes regulations and rules, see Act No. 30 of 1918.

DIVISION 4.—ACCIDENTS.

31. (1) Where a person suffers injury in an accident in a mine and is thereby disabled from following his ordinary occupation and earning his usual rate of remuneration the manager shall cause notice of the accident to be given—

- (a) to the district inspector for the district in which the mine is situated; and
- (b) if the injured person is a member of a union, within the meaning of that term under the Industrial Arbitration Act, 1912, to the Secretary or local representative of the union.

(1a) The notice required to be given under subsection (1) of this section shall—

- (a) if the injury appears to be serious, be given by the fastest practicable method of communication as soon as it is reasonably practicable to do so, and shall thereafter be confirmed in writing; and
- (b) if the injury appears not to be serious, be given in writing at the end of the calendar month.

Notice of accident to be given. Amended by No. 49 of 1954, s. 2; No. 68 of 1968, s. 11; No. 100 of 1969, s. 4; No. 63 of 1974, s. 28. (See No. 36 of 1906, s. 26.)

(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.

(c) Any accident, including fuming, arising out of the use of explosives or blasting agents 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.

(5) The manager shall, forthwith after the occurrence of—

- (a) any extensive subsidence, settlement or fall of ground or any major collapse of any part of the workings of a mine, or any earth movement caused by seismic event;
- (b) any outbreak of fire above or below ground in any mine;
- (c) any breakage of a rope, cable, chain or other gear by which men are raised or lowered;
- (d) any inrush of water from old underground workings or other source;

- (e) any accidental ignition of dust below ground or the discovery of the presence of gas or an outburst of gas in any part of a mine;
- (f) any accidental ignition or detonation of explosives, or any delayed or fast ignition of explosives; or
- (g) any explosion or bursting of compressed air receivers,

whether or not any bodily injury to any person or damage to property has resulted from such occurrence, give notice of it to a district inspector for the district wherein the mine is situated and give to him such particulars in respect of the occurrence as he may require and the manager shall record particulars of the occurrence in the Record Book.

Examination and inquiry as to cause of accident. Amended by No. 68 of 1968, s. 12.

32. (1) [*Repealed by No. 68 of 1968, s. 12.*]

(2) [*Repealed by No. 68 of 1968, s. 12.*]

(3) [*Repealed by No. 68 of 1968, s. 12.*]

(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. [*Repealed by No. 68 of 1968, s. 13.*]

Place of accident not to be interfered with. Amended by No. 68 of 1968, s. 14; No. 63 of 1974, s. 29. (See No. 36 of 1906, s. 29.)

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 permission of the inspector or, where the accident has proved fatal, until the coroner has granted permission.

(2) [Repealed by No. 68 of 1968, s. 14.]

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.)

DIVISION 5.—EMPLOYMENT.

36. (1) Subject to section thirty-seven, a person shall not be employed in charge of winding machinery used in a mine for more than eight consecutive hours on the surface and seven and one-half hours underground and between two periods of being so employed shall have an interval of at least eight hours.

Persons in charge of machinery not to be employed for more than eight consecutive hours on the surface or seven and one-half hours underground. Repealed and re-enacted by No. 68 of 1968, s. 15.

(2) For the purposes of subsection (1) of this section, hours of work are inclusive of meal times but exclusive of any time occupied in starting or closing down the machinery.

37. (1) A person employed in charge of winding machinery may work reasonable over-time to meet an emergency which necessitates his employment in excess of the hours mentioned in subsection (1) of section thirty-six but shall not—

Excess hours in special circumstances. Repealed and re-enacted by No. 68 of 1968, s. 16. Amended by No. 63 of 1974, s. 30.

- (a) be required to work such over-time without his consent;
- (b) be employed for more than twelve consecutive hours; or
- (c) be employed for more than sixty hours in one week.

(2) For the purposes of this section "emergency" means any serious breakdown of plant, machinery or mine workings, or any other circumstance that

could not have been reasonably foreseen and causes a hazard or danger to the health or safety of the personnel employed in a mine or which would, in the opinion of the district inspector for the district in which the mine is situated, seriously affect the production of the mine.

No workman to be employed for more than thirteen days in a fortnight. Repealed and re-enacted by No. 68 of 1968, s. 17. Amended by No. 63 of 1974, s. 31.

38. (1) Except as permitted by sections thirty-six and thirty-seven, a workman shall not, subject to subsections (2) and (3) of this section, be employed in or about a mine—

- (a) for more than the hours and days provided in the relevant Industrial Award;
- (b) on a Sunday without his consent; or
- (c) for more than thirteen consecutive days without a break of not less than one full day.

(2) The provisions of subsection (1) of this section do not apply to foremen, shift bosses, supervisors, caretakers or watchmen.

(3) The provisions of paragraph (b) of subsection (1) of this section do not apply to persons employed in connection with—

- (a) smelting or roasting furnaces, ore reduction plants, or other plants where mining products are treated or dealt with in a continuous process;
- (b) the crushing and screening of mining products;
- (c) the loading and transportation of mining products;
- (d) the operation of power plants, water supply plants, or pumping plants; or
- (e) the maintenance and repairs of machinery and plant.

(4) Where a workman accepts employment contrary to subsection (1) of this section, he and his employer are each guilty of an offence against this Act.

39. (1) A person shall not be employed to work underground—

Hours of employment below ground. Repealed and re-enacted by No. 68 of 1968, s. 18. Amended by No. 100 of 1969, s. 5.

- (a) for more than seven and one-half hours in any day unless he is a skipman or platman carrying out his duties as such on a normal working day;
- (b) for more than six shifts in any week; or
- (c) for a sixth shift without his express consent.

(2) For the purposes of subsection (1) of this section, a person is deemed to be employed underground from the time he commences to descend a mine for his work until he commences to return to the surface.

(3) Subsection (1) of this section does not apply where a serious breakdown of plant, machinery or mine workings, or any other event occurs that causes a hazard or danger to the health or safety of the personnel employed in or about a mine.

(4) Where a workman accepts employment contrary to subsection (1) of this section, he and his employer are each guilty of an offence against this Act.

40. (1) A person shall not be employed in a mine as a registered manager, assistant manager, underground manager, quarry manager, superintendent, foreman, shift boss, supervisor, platman, skipman, braceman, 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. Amended by No. 68 of 1968, s. 19; No. 63 of 1974, s. 32. (See No. 36 of 1966, 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) [*Deleted by No. 63 of 1974, s. 32.*]

No female or boy under 18 years to be employed underground. Repealed and re-enacted by No. 68 of 1968, s. 20. Amended by No. 63 of 1974, s. 33.

41. (1) A female shall not be employed underground.

(2) Except for a cadet or apprentice gaining the required experience as training for a profession or trade, a boy under the age of eighteen years shall not be employed underground.

Heading. Amended by No. 68 of 1968, s. 21.

DIVISION 6.—SUNDAY LABOUR UNDERGROUND.

Prohibition of labour on mines on Sundays underground. Amended by No. 68 of 1968, s. 22; No. 63 of 1974, s. 34. (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, underground, and no person shall accept such employment.

Penalty. Amended by No. 113 of 1965, s. 8; No. 63 of 1974, s. 35. (See No. 36 of 1906, s. 44.)

43. (1) Every person who employs a workman to do work on a Sunday contrary to this Act shall be liable to a penalty not exceeding fifty dollars 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.

(2) Every workman who accepts employment to work underground on a Sunday contrary to this Act shall be liable to a penalty not exceeding forty dollars for each offence.

44. Section forty-two does not apply to the employment of persons engaged—

- (a) in repairing any shaft, main tunnel, plat, underground skip loading station and associated ore pass system, engine or machinery so that it may be in working order at the close of Sunday;
- (b) in pumping or otherwise clearing water from a mine so that work may be resumed at the close of Sunday;
- (c) in sinking any shaft or driving any main tunnel in wet ground if in the opinion of a district inspector the inflow of water is so serious as to necessitate continuous work;
- (d) in doing any work necessitated by a dangerous emergency;
- (e) in cleansing spillage from a shaft; or
- (f) in doing work authorised by a district inspector pursuant to section forty-five.

Exceptions.
Repealed
and
re-enacted
by No. 68 of
1968, s. 23.
Amended by
No. 63 of
1974, s. 36.

45. (1) A district inspector, on being satisfied that the employment of labour underground 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 a district 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
underground
in certain
cases.
Amended by
No. 75 of
1961, s. 5;
No. 68 of
1968, s. 24,
No. 63 of
1974, s. 37.
(See No. 36
of 1906, s. 46.)

(2) Permits granted in accordance with subsection (1) of 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.

(3) [*Repealed by No. 68 of 1968, s. 24.*]

(4) [*Repealed by No. 68 of 1968, s. 24.*]

Heading.
Amended by
No. 63 of
1974, s. 39.

DIVISION 7.—ENGINE DRIVERS AND MACHINERY
OPERATORS.

Engine
drivers to be
certificated.
Amended by
No. 75 of
1961, s. 6;
No. 68 of
1968, s. 25;
No. 94 of
1972, s. 4;
No. 63 of
1974, s. 38.
(See No. 36
of 1966, s.31.)

46. (1) Any person who—

- (a) without holding a winding engine driver's certificate under the Inspection of Machinery Act, 1921, 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 or under which men are working; 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,

shall be guilty of an offence against this Act.

(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) [*Deleted by No. 63 of 1974, s. 38.*]

(4) The provisions of this section do not apply in relation to a hoist.

(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, 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.

46A. (1) For the purposes of this section—

Machinery
operators.
Added by
No. 63 of
1974, s. 40.

“certificate of competency” means any permit, licence, certificate or other document which is issued by a manager or a district or special inspector under the regulations and purports to show that the person named therein has been examined or tested and found to be competent in the operation of the machinery to which it relates, but does not include any certificate issued—

- (a) by a Senior Inspector; or
- (b) under any other Act;

“specified” means specified in the regulations as being machinery in relation to the operation of which a certificate of competency is required.

(2) Regulations may provide that no person shall take or have charge of specified machinery in a mine unless he is the holder of a certificate of competency issued by a manager or an inspector under the regulations following the examination or testing required by those regulations.

(3) An inspector shall have full power to require the immediate suspension of any person having charge of specified machinery in a mine who, in his opinion—

- (a) does not comply with the requirements of the regulations; or
- (b) should not be entrusted with the charge of that machinery,

and any manager failing to suspend such person on being required by the inspector so to do shall be guilty of an offence against this Act.

(4) Any certificate of competency issued under the regulations may be suspended by a manager, or an inspector, if any condition subject to which it was issued is contravened or not observed.

(5) Where a certificate of competency is suspended—

- (a) the suspension shall not subsist for a period of more than one month and may be revoked earlier by the manager with the agreement of the Senior Inspector;
- (b) during the period of suspension the certificate shall be deemed not to be in force;
- (c) the Senior Inspector may revoke the suspension; and
- (d) the Senior Inspector, if he is satisfied that it is in the public interest so to do, may direct that the certificate be suspended for such period as he thinks fit or shall be cancelled, and effect shall be given to that direction.

DIVISION 8.—PLANS.

Plans to be
furnished.
Amended by
No. 63 of
1974, s. 41.
(See No. 36
of 1906, s. 48.)

47. (1) Unless exempted in writing by the district inspector for the district in which the mine is situated, the owner, agent or manager of every mine shall keep at the office of 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 and quarry 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 in each year the owner, agent or manager shall furnish to the Minister certified copies of such plans, showing thereon, as far as possible, all the workings carried out up to the 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 or quarry workings of the mine by a licensed surveyor or an authorised mine 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 Her 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) Except where an exemption has been granted by the district inspector pursuant to subsection (1) of this section, if the owner, agent, or manager of any mine 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 quarry, or produces a plan imperfect or incorrect within his knowledge, he shall be guilty of an offence against this Act.

Mines
Survey
Board.
Added by
No. 63 of
1974, s. 42.

47A. (1) There shall be established under and in accordance with the regulations a body to be known as the Mines Survey Board which shall have a discretionary authority to deal with all matters connected with the making of surveys and plans of mine and quarry workings required under this Act.

(2) It shall be the function of the Mines Survey Board to advise the Minister generally on survey matters in relation to mine and quarry workings, to examine the qualifications, experience and character of persons applying for an Authorised Mine Surveyor's Certificate, to grant, suspend or cancel such certificates, and, subject to the Minister, to administer the regulations relating to the making of surveys and plans of mine and quarry workings.

Where mine
abandoned
plans to be
deposited
with
Minister.
Amended by
No. 63 of
1974, s. 43.
(See No. 36
of 1966, s. 49.)

48. Unless exempted in writing by the district inspector for the district in which the mine is situated, when any mine or quarry is to be 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 district inspector, showing the workings of such mine or quarry 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.
Amended by
No. 63 of
1974, s. 44.
(See No. 36
of 1966, s. 50.)

49. Every person employed in or about a mine or quarry shall, before commencing, and whilst at work, use ordinary and reasonable precaution to ascertain that the skips, cages, kibbles, chains, tackle, windlass, ropes, machinery 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 his immediate supervisor and, where practicable, 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.

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.

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

(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. When a mine or part of a mine is to be abandoned the owner, agent or manager shall securely fence or cover in every shaft and surface winze, and securely fence, cover in or fill with rock every other surface excavation which could constitute a danger to any person, 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 district 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. Amended by No. 63 of 1974, s. 45. (See No. 36 of 1906, s. 52.)

Minister may publish report. Amended by No. 68 of 1968, s. 26. (See No. 36 of 1966, s. 54.)

52. The Minister may cause the report of any 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.

Record books how to be kept. Amended by No. 63 of 1974, s. 46. (See No. 36 of 1966, s. 56.)

53. The record books 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 those books shall be kept in good order and condition, and all entries therein shall be written in ink.

What are offences against this Act. (See No. 36 of 1966, s. 57.)

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.

General Penalty. Amended by No. 6 of 1965, s. 2. No. 113 of 1965, s. 8; No. 63 of 1974, s. 47. (See No. 36 of 1966, s. 58.)

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

Continuing offences. Added by No. 63 of 1974, s. 48. "This Act" includes regulations, see Act No. 30 of 1918.

55A. (1) Where an offence is committed by a person by reason of his contravening, or failing to comply with, a provision of this Act by or under which he is required or directed to do any act or thing, or to refrain from doing any act or thing, that offence is deemed to continue so long as the act or thing so required or directed remains undone, or continues to be done, as the case may be.

(2) Where an offence is deemed to continue, the person who committed the offence, whether by act

or omission, commits an additional offence on each day during which the offence is deemed to continue and is liable, upon conviction for such an additional offence, to the penalty provided in relation to the original offence.

(3) For the purposes of this section, a refusal or neglect to do any act or thing shall be taken to be a failure so to do.

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.

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

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

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

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.

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

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

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

relatives of any person whose death may have been occasioned by the act or omission constituting such offence.

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.

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

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.

Power to make regulations.
Amended by No. 113 of 1965, s. 8; No. 68 of 1968, s. 27; No. 100 of 1969, s. 6; No. 63 of 1974, s. 49.
(See No. 36 of 1906, s. 63.)

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

- (a) Regulating the appointment and functions 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 supervisors under this Act.
- (d) Dealing with the examination and issuance of certificates to managers and supervisors under this Act and the constitution of a Board of Examiners therefor and the registration of managers and supervisors to whom such certificates have been issued.

- (e) Dealing with the use of explosives and blasting agents in mines, including—
 - (i) methods of storing and handling explosives and blasting agents in mines;
 - (ii) the removal or destruction of fumes from explosives and blasting agents by the use of liquid sprays or other means;
 - (iii) the testing of explosives and blasting agents 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 and blasting agents;
 - (vii) the persons who shall be allowed to charge and fire charges of explosives and blasting agents 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 blasting agents 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.

Mines Regulation.

- (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 railways or other mechanical transport in or on a mine.
- (ma) Dealing with all matters connected with dredging on mines.
- (n) Dealing with all matters connected with machinery in or on mines.
- (na) Dealing with the employment, training and examination of persons having charge of machinery in or about mines.
- (nb) Dealing with all matters connected with the issue, suspension, and cancellation of certificates, permits or other authorisations or exemptions required or permitted by this Act.
- (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;
 - (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 or machinery or engines in use or 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 vitiating 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;

Mines Regulation.

- (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.
- (sa) Dealing with the drainage of mines, both surface and underground, the discharge of water over land adjacent to mines, the manner in which such drainage or discharge of water shall be carried out, the persons who may or shall carry out, or permit the carrying out, of that drainage or discharge of water, the persons who shall be liable for the costs or part of the costs of that drainage, arbitration in respect of those costs in default of agreement and the qualifications of persons who conduct such arbitrations, and proceedings in respect of the recovery of those costs and other remedies.
- (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 there-

- with, 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 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.
- (va) dealing with all matters, connected with the health, safety and protection of persons engaged in the mining and processing of rock containing a radioactive substance.
- (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) Regulations may be made under this Act—
- (a) so as to apply—
 - (i) generally or in a particular class of case or in particular classes of cases;
 - (ii) at all times or at a specified time or at specified times; and
 - (iii) throughout the State or in a specified part or specified parts of the State;
 - (b) so as to require a matter affected by them to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body;
 - (c) so as to confer on a specified person or body or a specified class of person or body a discretionary authority;
 - (d) so as to provide that, in specified cases or a specified class of case or specified classes of cases, whether on specified conditions or unconditionally, persons or things of a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified; and
 - (e) so as to impose a penalty not exceeding five hundred dollars for any breach of the regulations.

(2a) In subsection (2) of this section "specified" means specified in the regulations.

(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) For the purpose of making the provisions of all the regulations applicable to that mine 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 the regulations applicable to that mine 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) [*Deleted by No. 63 of 1974, s. 49.*]

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.