

WESTERN AUSTRALIA

MINES REGULATION ACT 1946

ARRANGEMENT

- Sec.
1. Short title
 2. Repeal
 3. Divisions

DIVISION 1—PRELIMINARY

4. Interpretation
- 4A. Machinery safety
5. Exemptions

DIVISION 2—INSPECTION

6. Appointment of inspectors of mines
7. Control
8. Classification of inspectors
9. District inspectors
10. Conditions of appointment of special and workmen's inspectors
11. Term of appointment of workmen's inspectors
12. Powers of inspectors

- Sec.
13. Misuse of information
 14. Inspector not to report or divulge information
 15. Penalty
 16. Penalty for refusing to give facilities for inspection
 17. Penalty for obstructing inspector
 18. Inspector to record result of inspection
 19. Record book to be open for inspection
 20. Inspector may inquire into complaints
 21. Power of Government Geologist and others to inspect mines
 22. Requisitions as to dangerous or defective matters
 23. Arbitration

DIVISION 2A—HEALTH

- 23A. Medical officers
- 23B. Occupational health
- 23C. Ventilation Board
- 23D. Functions of the Ventilation Board
- 23E. Disputes
- 23F. Appeals to the Ventilation Board
- 23G. Interpretation
- 23H. Mines Radiation Safety Board
- 23I. Functions of the Board
- 23J. Board may inquire into and report upon radiation safety in a mine
- 23K. Committees
- 23L. Regulations
- 23M. Enforcement of regulations
- 23N. Board may formulate codes

DIVISION 3—MANAGEMENT

24. Every mine to be under the control of a registered manager
25. Certificated underground managers
26. Approval required to manage more than one mine or quarry
27. On assuming control manager to give notice to inspector
28. Penalty for working without manager or underground manager
29. Notice of commencement, discontinuance, etc.
30. Duties and responsibility of manager

DIVISION 4—ACCIDENTS

31. Notice of accident to be given
32. Examination and inquiry as to cause of accident
34. Place of accident not to be interfered with
35. Persons employed in mines to report accidents

DIVISION 5—EMPLOYMENT

- Sec.
- 36. Hours of employment for persons in charge of winding machinery
 - 37. Excess hours in special circumstances
 - 38. Limitation on hours and days worked by certain workmen
 - 39. Hours of employment underground
 - 40. Ability to speak and read English required
 - 41. No person under 18 to be employed underground

DIVISION 6—SUNDAY LABOUR UNDERGROUND

- 42. Prohibition of labour on mines on Sundays underground
- 43. Penalty
- 44. Exceptions
- 45. Power to authorize Sunday labour underground in certain cases

DIVISION 7—ENGINE DRIVERS AND MACHINERY OPERATORS

- 46. Winding engine drivers to be qualified
- 46A. Machinery operators

DIVISION 8—PLANS

- 47. Plans to be furnished
- 47A. Mines Survey Board
- 48. Where mine abandoned plans to be deposited with Minister

DIVISION 9—MISCELLANEOUS

- 49. Employees to satisfy themselves of safety of appliances
- 50. Protection of abandoned shafts
- 51. Responsibility as to fencing and filling in abandoned shaft, etc.
- 52. Minister may publish report
- 53. Record books how to be kept
- 54. Offences against this Act
- 55. General penalty
- 55A. Continuing offences
- 56. Proceedings to be taken by inspector or authorized officer
- 57. Hearing of proceedings
- 58. Limit of time for proceedings in respect of offences
- 59. Application of penalties
- 60. Service of notices
- 61. Power to make regulations
- 62. Review

SCHEDULE 1

SCHEDULE 2

Provisions as to Constitution and Proceedings of the Mines
Radiation Safety Board

Clause

1. Term of office
2. Resignation, removal, etc. of appointed members
3. Nomination of other members
4. Deputy members
5. Meetings
6. Leave of absence
7. Board to determine its own procedures

NOTES

WESTERN AUSTRALIA

MINES REGULATION ACT 1946

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.]

Short title

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

Repeal

2. *[Section 2 omitted under the Reprints Act 1984 s.7 (4) (f).]*

Divisions

3. *[Section 3 omitted under the Reprints Act 1984 s.7 (4) (d).]*

DIVISION 1—PRELIMINARY

Interpretation

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 20 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 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), 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;

“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 licence 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;

“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 15 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 2 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;

“winding engine” means any machinery used to raise or lower, by means of a rope or ropes, conveyances in a shaft or winze for the transport of persons, material or rock but does not include any lifting machine, endless rope haulage or scraper winch installation;

“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) 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 7 of the *Construction Safety Act 1972*², 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.

[Section 4 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; No. 64 of 1987 s.4.]

Machinery safety

4A. (1) 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.

(2) Where a provision of this Act is inconsistent with a provision of the *Radiation Safety Act 1975* the latter provision prevails.

[Section 4A inserted by No. 63 of 1974 s.6; amended by No. 64 of 1987 s.5.]

Exemptions

5. (1) Subject to subsection (1a), this Act shall not apply to any coal mine within the meaning of the *Coal Mines Regulation Act 1946*.

(1a) The provisions of this Act relating to winding engines apply to and in relation to a coal mine as defined in the *Coal Mines Regulation Act 1946*.

(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.

[Section 5 amended by No. 63 of 1974 s.7; No. 64 of 1987 s.6.]

DIVISION 2—INSPECTION

[*Heading inserted by No. 63 of 1974 s.8.*]

Appointment of inspectors of mines

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.

(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.

[*Section 6 amended by No. 63 of 1974 s.9.*]

Control

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.

[*Section 7 amended by No. 63 of 1974 s.10.*]

Classification of inspectors

8. Inspectors of mines shall be of 3 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 5 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.

[Section 8 amended by No. 54 of 1956 s.2; No. 75 of 1961 s.3; No. 63 of 1974 s.11.]

District inspectors

9. District inspectors shall be under the *Public Service Act 1978*³ 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.

Conditions of appointment of special and workmen's inspectors

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.

[Section 10 amended by No. 63 of 1974 s.12.]

Term of appointment of workmen's inspectors

11. Workmen's inspectors shall be appointed for a term not to exceed 3 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

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 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;
- (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 subsections (1) (b) and (2) (b), 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.

[Section 12 amended by No. 24 of 1954 s.2; No. 68 of 1968 s.3; No. 63 of 1974 s.13.]

Misuse of information

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.

[Section 13 inserted by No. 63 of 1974 s.14.]

Inspector not to report or divulge information

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.

[Section 14 amended by No. 24 of 1954 s.3.]

Penalty

15. A person who contravenes the provisions of section 13 or section 14 shall be guilty of an offence against this Act.

[Section 15 inserted by No. 63 of 1974 s.15; amended by No. 64 of 1987 s.7.]

Penalty for refusing to give facilities for inspection

16. Every owner, agent, or manager of a mine who refuses or neglects to furnish to the inspector or any other person duly authorized the means necessary for making an entry, inspection, examination or inquiry under this Act in relation to such mine, commits an offence.

[Section 16 amended by No. 113 of 1965 s.8; No. 63 of 1974 s.16; No. 64 of 1987 s.8.]

Penalty for obstructing inspector

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.

(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 authorized 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.

[Section 17 amended by No. 63 of 1974 s.17.]

Inspector to record result of inspection

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.

Record book to be open for inspection

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 authorized by the Minister.

Inspector may inquire into complaints

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 of Government Geologist and others to inspect mines

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 authorize 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.

[Section 21 amended by No. 63 of 1974 s.18.]

Requisitions as to dangerous or defective matters

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), 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 ensure the safety of the workmen.
- (3) If the owner, agent or manager objects to complying with such requisition, he may, within 7 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 14 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.

[Section 22 amended by No. 68 of 1968 s.4; No. 63 of 1974 s.19.]

Arbitration

23. Every arbitration under this Act shall be conducted according to the provisions of the *Commercial Arbitration Act 1985*, applicable to a reference to 2 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.

[Section 23 amended by No. 68 of 1968 s.5; No. 109 of 1985 s.3.]

DIVISION 2A--HEALTH

[*Heading inserted by No. 63 of 1974 s.20.*]

Medical officers

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.

[*Section 23A inserted by No. 63 of 1974 s.20.*]

Occupational health

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.

(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.

[*Section 23B inserted by No. 63 of 1974 s.20.*]

Ventilation Board

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.

(2) The body referred to in subsection (1) 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) *deleted*]

and

(c) 8 persons appointed by the Minister, of whom—

(i) one shall be an Inspector of Mines having specialized training in ventilation technology;

(ia) one shall be an Inspector of Mines having specialized experience in occupational hygiene matters in the mining industry;

(ii) one shall be a medical practitioner having specialized experience in occupational health problems relevant to the mining industry, nominated by the Executive Director, Public Health and Scientific Support Services of the department of the Public Service of the State principally assisting the Minister charged with the administration of the *Health Act 1911*;

(iii) one shall be a medical practitioner having specialized experience in occupational health relevant to the mining industry nominated by the chief executive officer⁴ of the department principally assisting the Minister charged with the administration of the *Occupational Health, Safety and Welfare Act 1984*;

(iv) 2 shall be persons who are experienced in ventilation technology and are nominated by the body known as the Chamber of Mines of Western Australia (Inc.);

(iva) one shall be a person who is experienced in ventilation technology nominated by the body known as the Trades and Labor Council of Western Australia;

and

- (v) one shall be a person who is experienced in ventilation technology and is nominated by the Mining Division of the body known as the Australian Workers' Union.

(2a) Whenever a nomination is required for the purpose of filling an office referred to in subsection (2)(c) the Minister shall, in writing, request the person or body referred to in the appropriate subparagraph to nominate in writing, within a period specified in the notice, a person qualified and willing to be appointed to that office.

(2b) Where a request is made pursuant to subsection (2a) the Minister may, if no nomination is made in accordance with the request, appoint as member such person, being a person who is experienced in ventilation technology, as he thinks fit.

(2c) A member appointed under subsection (2)(c) may resign his office at any time by notice in writing delivered to the Minister.

(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 4 members.

(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 specialized knowledge or experience, but a person so co-opted is not entitled to a vote.

[Section 23C⁵ inserted by No. 63 of 1974 s.20; amended by No. 28 of 1984 s.70; No. 88 of 1984 s.3; No. 41 of 1985 s.38; No. 77 of 1986 s.5; No. 64 of 1987 s.9.]

Functions of the Ventilation Board

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

- (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 within the meaning of section 22(1) of the *Environmental Protection Act 1986*, 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 the Public Service of the State principally assisting the Minister charged with the administration of the *Health Act 1911*, the Department of Occupational Health, Safety and Welfare 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) 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.

[Section 23D inserted by No. 63 of 1974 s.20; amended by No. 28 of 1984 s.71; No. 77 of 1986 s.6; No. 64 of 1987 s.10.]

Disputes

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.

(2) If the dispute is not resolved by the decision made by the Senior Inspector a person aggrieved may within 7 days thereafter appeal to the Ventilation Board.

[Section 23E inserted by No. 63 of 1974 s.20.]

Appeals 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 7 days from the date of receiving the decision given by the Senior Inspector, of his intention to appeal to the Board.

(2) On receipt of a notice under subsection (1) 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 7 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.

[Section 23F inserted by No. 63 of 1974 s.20.]

Interpretation

23G. In this section and in sections 23H to 23N and in Schedule 2—

“appointed member” means a member of the Board appointed under section 23H(2)(a) or (c);

“Board” means the Mines Radiation Safety Board established under section 23H;

“chairman” means the chairman of the Board;

“member” means a member of the Board and includes the chairman of the Board;

“radiation” means ionising radiation, that is, electromagnetic or corpuscular radiation capable of producing ions directly or indirectly;

“radioactive” means spontaneously emitting radiation by nuclear transformation;

“regulation” means a regulation made under section 23L.

[Section 23G inserted by No. 64 of 1987 s.11.]

Mines Radiation Safety Board

23H. (1) There is established by this section a board by the name of the Mines Radiation Safety Board.

(2) The Board shall consist of 8 persons of whom—

(a) one person shall be a person who is not an officer of the Public Service of the State who is appointed by the Minister;

(b) 3 persons shall be as follows—

(i) one person nominated by the Permanent Head⁶;

(ii) one person nominated by the chief executive officer of the department⁴ principally assisting the Minister to whom the administration of the *Occupational Health, Safety and Welfare Act 1984* is committed by the Governor; and

(iii) one person nominated by the Chairman of the Radiological Council established under the *Radiation Safety Act 1975*;

and

(c) 4 persons shall be appointed by the Minister as follows—

(i) 2 persons shall be appointed on the nomination of the body known as the Trades and Labor Council of Western Australia;

(ii) one person shall be appointed on the nomination of the body known as the Chamber of Mines; and

(iii) one person shall be appointed on the nomination of the body known as The Confederation of Western Australian Industry (Incorporated).

(3) The person appointed under subsection (2) (a) shall be chairman of the Board.

(4) An appointed member is entitled to such remuneration and allowances as are determined by the Minister on the recommendation of the Public Service Commissioner⁷.

(5) Appointment of a person as a member does not of itself render the *Public Service Act 1978* or any other Act applying to persons as officers of the Public Service of the State, applicable to that person or affect or prejudice the application to him of those provisions if they applied to him at the time of his appointment.

(6) The provisions of Schedule 2 shall have effect with respect to the constitution and proceedings of the Board.

[Section 23H inserted by No. 64 of 1987 s.11.]

Functions of the Board

23I. (1) In addition to the functions conferred on the Board under this Act, the functions of the Board are—

- (a) to advise the Minister with respect to radiation and radioactive contaminants in mines and make recommendations to the Minister with respect to—
 - (i) the maximum levels of radiation arising from or in the course of mining to which persons may be exposed;
 - (ii) the methods to be employed when dealing with radioactive tailings or other radioactive effluents arising from mining;
 - (iii) the preparation and implementation of legislation relating to the operation of mines being worked for radioactive substances or other material where radiation is or is likely to be present;
 - (iv) the co-ordination of safety measures in relation to radiation in mines;
- (b) to collect and disseminate information relating to radiation safety in mines; and
- (c) the promotion of radiation safety in mines.

(2) Before making any recommendation under subsection (1) the Board may and shall, whenever directed by the Minister, consult with any persons or body of persons who or which have an interest or function in relation to radiation safety.

[Section 23I inserted by No. 64 of 1987 s.11.]

Board may inquire into and report upon radiation safety in a mine

23J. (1) For the purposes of carrying out its functions under this Act the Board may inquire into and report to the Minister upon—

- (a) the level of radiation or radioactive contaminants in any mine or arising from mining;
- (b) the measures taken with respect to radiation safety in a mine;
- (c) the discharge of radioactive effluents and radioactive atmospheric contaminants from a mine;
- (d) the disposal of waste products of a mine containing radioactive substances;
- (e) the rehabilitation and management of a mine area insofar as they relate to radiation safety upon the cessation of mining.

(2) The Board may for the purposes of subsection (1) call for and consider public submissions on any matter related to its inquiries.

(3) For the purposes of this section the Board, or, a member of the Board, with the approval of the Board, may enter any mine or authorize any person to enter a mine.

(4) The Board may for the purposes of carrying out its functions under this Act consult with and obtain advice from the Radiological Council constituted under the *Radiation Safety Act 1975* and any other department of the Public Service of the State on matters relating to radiation safety.

[Section 23J inserted by No. 64 of 1987 s.11.]

Committees

23K. (1) For the purposes of carrying out its functions under this Act the Board may with the approval of the Minister—

- (a) appoint committees consisting of members of the Board and other persons; and
- (b) delegate to any committee so appointed such of its functions as the Board specifies in the instrument of delegation.

(2) The Minister may at any time remove from a committee any person appointed to it whether a member of the Board or not.

(3) A person appointed to a committee shall be paid such remuneration as the Minister on the recommendation of the Public Service Commissioner⁷ determines.

(4) The Board may give directions to a committee relating to the functions to be carried out by the committee and effect shall be given to any such direction.

[Section 23K inserted by No. 64 of 1987 s.11.]

Regulations

23L. (1) The Governor may make such regulations as are necessary or convenient for the purposes of providing for radiation safety in mines.

(2) Without affecting the generality of subsection (1) regulations may be made—

- (a) in relation to radiation with respect to the safety of persons working in or about mines or any area in which minerals are produced or treated;
- (b) subject to subsection (3) prescribing the maximum levels of radiation to which employees and the public may be exposed;
- (c) providing for the licensing of mines and mining operations where radiation is present;

- (d) requiring the compilation of such information as is, and the maintenance of such records as are, prescribed by persons who operate mines in which radiation or radioactive contaminants is or are present;
- (e) prescribing the methods to be adopted for the purposes of monitoring, assessing and predicting exposure of persons to radiation;
- (f) providing for the prohibition, regulation and control of radioactive effluents and radioactive atmospheric contaminants from a mine;
- (g) providing for the disposal of waste products containing radioactive substances;
- (h) providing for the decommissioning of a mine, mill and other associated facilities;
- (i) providing for the rehabilitation and management of a mine area following the cessation of production;
- (j) prescribing the instruments and methods to be applied to determine the levels of radiation and radioactive contaminants in or about a mine;
- (k) prescribing the qualifications of radiation safety officers;
- (l) prescribing the records to be kept by the owner, agent or manager of radioactive emissions and exposure to radiation and making provision for their examination by inspectors.

(3) Regulations under subsection (2)(b) shall be made only on the recommendation of the Radiological Council constituted under the *Radiation Safety Act 1975*.

(4) Where a code of practice in relation to radiation in or about a mine is formulated or adopted under any law of the Parliament of the Commonwealth regulations made under this section may adopt the code of practice formulated or adopted under that law.

[Section 23L inserted by No. 64 of 1987 s.11.]

Enforcement of regulations

23M. (1) Where a dispute arises from a decision made by an inspector with regard to the adequacy or standard of radiation protection 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.

(2) If the dispute is not resolved by the decision made by the senior inspector a person aggrieved may within 7 days thereafter appeal to the Board and the Board may determine the matter.

(3) Nothing in this section prevents an inspector from proceeding against a person for an offence against the regulations.

[Section 23M inserted by No. 64 of 1987 s.11.]

Board may formulate codes

23N. (1) The Board may formulate codes of practice relating to radiation safety in or about mines.

(2) A code of practice formulated under subsection (1) may—

- (a) specify standards to be observed, practices and procedures to be followed and measures to be taken with respect to radiation safety;
- (b) recommend practices and procedures that may be followed, and measures that may be taken to further the attainment of the standards specified in a code of practice.

(3) A code of practice formulated under subsection (1) may adopt codes of practice formulated under any law of the Parliament of the Commonwealth or any State.

[Section 23N inserted by No. 64 of 1987 s.11.]

DIVISION 3—MANAGEMENT

Every mine to be under the control of a registered manager

24. (1) Where 25 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 14 days after his appointment, and every fresh appointment shall be notified in a like manner.

[(3) Repealed]

(4) Subject to subsection (5), 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.

(5) If the registered manager is incapacitated from performing his duties or is about to be absent from the mine for more than 5 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.

[Section 24 amended by No. 68 of 1968 s.6; No. 63 of 1974 s.21.]

Certificated underground managers

25. (1) Subject to subsection (7), the underground workings of every mine employing 25 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.

(2) The underground workings of every mine employing less than 25 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]

[(4) Repealed]

(5) Subject to subsection (7), if 25 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 25 men are employed in or about a 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 25 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), 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 25 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), 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 (7a) shall not be made for a period exceeding 4 weeks.

[Section 25 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.]

Approval required to manage more than one mine or quarry

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.

[Section 26 inserted by No. 63 of 1974 s.23.]

On assuming control manager to give notice to inspector

27. (1) Every registered manager shall, within a period of 7 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 7 days after he has assumed control and daily supervision of the underground workings of a mine or the workings 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.

[Section 27 inserted by No. 68 of 1968 s.8; amended by No. 63 of 1974 s.24.]

Penalty for working without manager or underground manager

28. If any mine is worked for more than 14 days except under the control and supervision of a registered manager appointed under the provisions of section 24 or without the appointment of a certificated manager in charge of the underground or quarry workings as provided in section 25 the owner and agent of such mine shall each commit an offence against this Act for each day or part of a day during which such mine is so worked.

[Section 28 amended by No. 113 of 1965 s.8; No. 68 of 1968 s.9; No. 63 of 1974 s.25; No. 64 of 1987 s.12.]

Notice of commencement, discontinuance, etc.

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.

[Section 29 inserted by No. 63 of 1974 s.26.]

Duties and responsibility of manager

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.

(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.

[Section 30 amended by No. 68 of 1968 s.10; No. 63 of 1974 s.27.]

DIVISION 4—ACCIDENTS

Notice of accident to be given

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*⁸, to the Secretary or local representative of the union.

(1a) The notice required to be given under subsection (1) 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.

(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 2 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 authorized 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.

[Section 31 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.]

Examination and inquiry as to cause of accident

32. *[(1), (2) and (3) repealed]*

(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.

[Section 32 amended by No. 68 of 1968 s.12.]

33. [Section 33 repealed by No. 68 of 1968 s.13.]

Place of accident not to be interfered with

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*]

[Section 34 amended by No. 68 of 1968 s.14; No. 63 of 1974 s.29.]

Persons employed in mines to report accidents

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.

DIVISION 5—EMPLOYMENT

Hours of employment for persons in charge of winding machinery

36. (1) Subject to section 37, a person shall not be employed in charge of winding machinery used in a mine for more than 8 consecutive hours on the surface and 7½ hours underground and between 2 periods of being so employed shall have an interval of at least 8 hours.

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

[Section 36 inserted by No. 68 of 1968 s.15.]

Excess hours in special circumstances

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 section 36 (1) but shall not—

- (a) be required to work such over-time without his consent;
- (b) be employed for more than 12 consecutive hours; or
- (c) be employed for more than 60 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.

[Section 37 inserted by No. 68 of 1968 s.16; amended by No. 63 of 1974 s.30.]

Limitation on hours and days worked by certain workmen

38. (1) Except as permitted by sections 36 and 37, a workman shall not, subject to subsections (2) and (3), 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 consent; or
- (c) for more than 13 consecutive days without a break of not less than one full day.

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

(3) The provisions of subsection (1)(b) 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), he and his employer are each guilty of an offence against this Act.

[Section 38 inserted by No. 68 of 1968 s.17; amended by No. 63 of 1974 s.31.]

Hours of employment underground

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

- (a) for more than 7½ 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 6 shifts in any week; or
- (c) for a 6th shift without his express consent.

(2) For the purposes of subsection (1), 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) 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), he and his employer are each guilty of an offence against this Act.

[Section 39 inserted by No. 68 of 1968 s.18; amended by No. 100 of 1969 s.5.]

Ability to speak and read English required

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.

(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 4 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.

[Section 40 amended by No. 68 of 1968 s.19; No. 63 of 1974 s.32.]

No person under 18 years to be employed underground

41. *[(1) repealed]*

(2) Except for a cadet or apprentice gaining the required experience as training for a profession or trade, a person under the age of 18 years shall not be employed underground.

[Section 41 inserted by No. 68 of 1968 s.20; amended by No. 63 of 1974 s.33; No. 5 of 1985 s.2.]

DIVISION 6—SUNDAY LABOUR UNDERGROUND

[*Heading amended by No. 68 of 1968 s.21.*]

Prohibition of labour on mines on Sundays underground

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.

[*Section 42 amended by No. 68 of 1968 s.22; No. 63 of 1974 s.34.*]

Penalty

43. (1) Every person who employs a workman to do work on a Sunday contrary to this Act commits an offence in relation to every workman so employed; and, if the employer is the owner, agent or manager, each of them shall be severally liable to a penalty.

(2) Every workman who accepts employment to work underground on a Sunday contrary to this Act commits an offence.

[*Section 43 amended by No. 113 of 1965 s.8; No. 63 of 1974 s.35; No. 64 of 1987 s.13.*]

Exceptions

44. Section 42 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 authorized by a district inspector pursuant to section 45.

[Section 44 inserted by No. 68 of 1968 s.23; amended by No. 63 of 1974 s.36.]

Power to authorize Sunday labour underground in certain cases

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.

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

[Section 45 amended by No. 75 of 1961 s.5; No. 68 of 1968 s.24; No. 63 of 1974 s.37.]

DIVISION 7—ENGINE DRIVERS AND MACHINERY OPERATORS

[Heading amended by No. 63 of 1974 s.39.]

Winding engine drivers to be qualified

46.⁹ (1) Subject to this section, a person shall not—

- (a) operate; or
- (b) take charge of,

a winding engine by which persons or materials are raised or lowered or under which persons are working unless he is the holder of a winding engine driver's certificate of competency issued under this Act for the class of winding engine in question.

(2) A person shall not cause or permit a person to operate a winding engine by which persons or materials are raised or lowered or under which persons are working unless that second mentioned person is the holder of a winding engine driver's certificate of competency for the class of winding engine in question.

(3) This section—

- (a) applies to a coal mine within the meaning of that term in the *Coal Mines Regulation Act 1946*;
- (b) does not apply to a hoist.

(4) Where the Minister is satisfied that in the circumstances of a particular case—

- (a) it is impracticable to comply with subsections (1) and (2);
and
- (b) all reasonable precautions are taken for safety,

the Minister may by order in writing direct that subsections (1) and (2) do not apply in relation to the circumstances specified in the order for the period specified in the order.

(5) An order under subsection (4)—

- (a) shall not be made for a period exceeding 6 months;
- (b) may be renewed from time to time;
- (c) may be revoked by the Minister at any time notwithstanding that the period in respect of which the order is made has not expired.

[Section 46 inserted by No. 64 of 1987 s.14.]

Machinery operators

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

“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.

[Section 46A inserted by No. 63 of 1974 s.40.]

DIVISION 8—PLANS

Plans to be furnished

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 6 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 31 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 authorized 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 authorized by the Minister, and the manager shall, if requested, mark on such plans the progress of 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), 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), 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.

[*Section 47 amended by No. 63 of 1974 s.41.*]

Mines Survey Board

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 Authorized 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.

[Section 47A inserted by No. 63 of 1974 s.42.]

Where mine abandoned plans to be deposited with Minister

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.

[Section 48 amended by No. 63 of 1974 s.43.]

DIVISION 9—MISCELLANEOUS**Employees to satisfy themselves of safety of appliances**

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.

[Section 49 amended by No. 63 of 1974 s.44.]

Protection of abandoned shafts

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.

Responsibility as to fencing and filling in abandoned shaft, etc.

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.

[Section 51 amended by No. 63 of 1974 s.45.]

Minister may publish report

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.

[Section 52 amended by No. 68 of 1968 s.26.]

Record books how to be kept

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.

[Section 53 amended by No. 63 of 1974 s.46.]

Offences against this Act

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

55. A person who commits an offence against this Act is liable to a penalty—

- (a) in the case of a corporation, of \$50 000;

(b) in the case of a natural person, of \$5 000.

[Section 55 inserted by No. 64 of 1987 s.15.]

Continuing offences

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.

(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.

[Section 55A inserted by No. 63 of 1974 s.48; amended by No. 64 of 1987 s.16.]

Proceedings to be taken by inspector or authorized officer

56. All proceedings for offences under this Act shall be taken by the inspector or by some officer authorized 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

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.

Limit of time for proceedings in respect of offences

58. All informations and proceedings in respect of offences against this Act shall be commenced within 6 months after the offences thereby respectively charged shall have been committed.

Application of penalties

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.

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

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

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, supervisors and winding engine drivers under this Act and the constitution of Boards of Examiners therefor and the registration of managers, supervisors and engine drivers 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.
- (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 authorizations or exemptions required or permitted by this Act.
- (o) Dealing with wilful damage to or unauthorized 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 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.
- (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 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 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.
- (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;
- (ba) so as to adopt, either wholly or in part or with modifications and either specifically or by reference, any rules, regulations, codes or other subordinate legislation, made, determined or issued under any other Act or under any Act of the Parliament of the Commonwealth or of any standards, rules, codes or specifications of any body specified in the regulations;
- (c) so as to confer on a specified person or body or a specified class of person or body a discretionary authority; and
- (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.

(2a) In subsection (2) "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) Regulations made under this Act may adopt either wholly or in part and either specifically or by reference, any of the standards, rules, codes or specifications of the bodies known as the Standards

Association of Australia, the National Health and Medical Research Council, the International Atomic Energy Agency, the World Health Organisation, the International Labor Organisation or such other like body as is specified in the regulations.

[Section 61 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; No. 64 of 1987 s.17.]

Review

62. (1) The Minister shall carry out a review of the operation and effectiveness of this Act on every 5th anniversary of the date of the commencement of sections 23G to 23N and in the course of that review the Minister shall consider and have regard to—

- (a) the effectiveness of the Ventilation Board and the Mines Radiation Safety Board;
- (b) the need for the continuation of the functions of the Ventilation Board and the Mines Radiation Safety Board; and
- (c) such other matters as appear to him to be relevant to the operation and effectiveness of sections 23A to 23L.

(2) The Minister shall prepare a report based on his review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

[Section 62 inserted by No. 64 of 1987 s.18.]

SCHEDULE 1

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

[Schedule 1 amended by No. 64 of 1987 s.19.]

SCHEDULE 2

Sections 23G, 23H.

Provisions as to Constitution and Proceedings of the Mines Radiation Safety Board**Term of office**

1. (1) Except as otherwise provided by this Act, an appointed member shall hold office for such term, not exceeding 3 years, as is specified in his instrument of appointment, but may from time to time be re-appointed.

(2) An appointed member, unless he sooner resigns, or is removed from office, shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Resignation, removal, etc. of appointed members

2. The office of an appointed member becomes vacant if—

- (a) he resigns his office by written notice addressed to the Minister;
- (b) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (c) he is removed from office by the Minister on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his duties and proved to the satisfaction of the Minister.

Nomination of other members

3. A nomination of a member for the purposes of section 23H (2) (b) may be made from time to time and may be expressed to operate for a period or in such circumstances as are specified in the instrument of nomination and may be withdrawn by the nominator at any time.

Deputy members

4. (1) The Minister may appoint an eligible person to act as deputy of an appointed member other than the member appointed under section 23H (2) (a), to act in the place of the appointed member whenever the appointed member is absent by reason of sickness, absence or other cause and while so acting the deputy member is deemed to be a member of the Board.

(2) No act or omission of a deputy member shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.

(3) The appointment of a person as a deputy member may be terminated by the Minister at any time.

Meetings

5. (1) The first meeting of the Board shall be convened by the chairman and thereafter, subject to subclause (2), meetings shall be held at such times and places as the Board determines.

(2) A special meeting of the Board may at any time be convened by the chairman.

(3) The chairman shall preside at all meetings of the Board at which he is present.

(4) If the chairman is absent from a meeting the person holding office under section 23H (2) (b) (i) if he is present shall preside at the meeting and if that person is absent from the meeting the members present shall appoint one of their number to preside.

(5) A quorum for a meeting of the Board is 5 members.

(6) At any meeting of the Board the person presiding at the meeting shall have a deliberative vote, and, in the event of an equality of votes, shall also have a casting vote.

(7) The Board shall cause accurate minutes to be kept of the proceedings at its meetings.

Leave of absence

6. The Minister may grant leave of absence to an appointed member on such terms and conditions as the Minister thinks fit.

Board to determine its own procedures

7. Except to the extent that they are prescribed, the Board shall determine its own procedures.

[Schedule 2 added by No. 64 of 1987 s.20.]

NOTES

¹ This reprint is a compilation as at 14 March 1991 of the *Mines Regulation Act 1946* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Mines Regulation Act 1946</i>	54 of 1946	24 January 1947	1 May 1949 (see <i>Gazette</i> 4 April 1949 p.731)	
<i>Mines Regulation Act Amendment Act 1954</i>	24 of 1954	8 October 1954	8 October 1954	
<i>Mines Regulation Act Amendment Act (No. 2) 1954</i>	49 of 1954	8 December 1954	8 December 1954	
<i>Mines Regulation Act Amendment Act 1956</i>	54 of 1956	27 December 1956	27 December 1956	
<i>Mines Regulation Act Amendment Act 1961</i>	75 of 1961	28 November 1961	23 February 1962 (see <i>Gazette</i> 23 February 1962 p. 514)	

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Mines Regulation Act Amendment Act 1965</i>	6 of 1965	15 September 1965	15 September 1965	
<i>Decimal Currency Act 1965</i>	113 of 1965	21 December 1965	Sections 4 to 9: 14 February 1966 (see section 2 (2)); balance: 21 December 1965	
<i>Mines Regulation Act Amendment Act 1968</i>	68 of 1968	18 November 1968	18 November 1968	
<i>Mines Regulation Act Amendment Act 1969</i>	100 of 1969	25 November 1969	25 November 1969	
<i>Metric Conversion Act 1972</i>	94 of 1972	4 December 1972	The relevant amendments, as set out in the First Schedule took effect on 1 January 1973 (see section 4 (2) and <i>Gazette</i> 29 December 1972 p. 4811)	The Schedule to No. 94 of 1972 was redesignated as the First Schedule by the <i>Metric Conversion Act Amendment Act 1973</i> (No. 19 of 1973)
<i>Mines Regulation Act Amendment Act 1974</i>	63 of 1974	9 December 1974	5 April 1976 (see <i>Gazette</i> 26 March 1976 p. 858)	
<i>Health Legislation Amendment Act 1984 Part XIV</i>	28 of 1984	31 July 1984	1 July 1984 (see section 2)	
<i>Mines Regulation Amendment Act 1984</i>	88 of 1984	29 November 1984	19 July 1985 (see <i>Gazette</i> 19 July 1985 p. 2488)	
<i>Mines Regulation Amendment Act 1985</i>	5 of 1985	25 March 1985	22 April 1985	

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Environmental Legislation) Act 1985 Part III</i>	41 of 1985	13 May 1985	21 June 1985 (see <i>Gazette</i> 21 June 1985 p. 2188)	Transitional ⁵
<i>Commercial Arbitration Act 1985 Section 3 (1)</i>	109 of 1985	8 January 1986	1 April 1986 (see <i>Gazette</i> 28 February 1986 p. 605)	
<i>Acts Amendment and Repeal (Environmental Protection) Act 1986 Part III</i>	77 of 1986	4 December 1986	20 February 1987 (see <i>Gazette</i> 20 February 1987 p. 440)	
<i>Mines Regulation Amendment Act 1987</i>	64 of 1987	18 November 1987	Sections 1 to 3, 7, 8, 12, 13, 15, 16 and 17 (b) (iv): 3 June 1988 (see <i>Gazette</i> 3 June 1988 p. 1851); sections 4, 6, 14 and 17 (a) (i): 14 October 1988 (see <i>Gazette</i> 14 October 1988 p. 4153); sections 5, 11, 17 (a) (ii), 17 (b) (i), (ii) and (iii), 17C, 18 to 20: 20 January 1989 (see <i>Gazette</i> 20 January 1989 p. 110); sections 9 and 10: 5 October 1990 (see <i>Gazette</i> 5 October 1990 p. 5120)	Transitional ⁹

². Repealed by Act No. 41 of 1987 s.33.

³. Formerly referred to *Public Service Act 1904*. Reference substituted under section 7 (3) (g) of the *Reprints Act 1984*.

4. Title amended under section 7 (5) (a) of the *Reprints Act 1984* to give effect to section 31 (1) (f) of the *Acts Amendment (Public Service) Act 1987*.

5. Section 38 (1) of Act No. 41 of 1985 reads as follows:—

(2) The person holding office under section 23C (2) (c) (iii) of the *Mines Regulation Act 1946* immediately before the day of the coming into operation of this Act shall, after that day, be deemed to have been nominated and appointed in accordance with that Act as amended by subsection (1).

6. Now refers to the chief executive officer of the department that is for the time being assisting the Minister in administering the *Mines Regulation Act 1946*. See section 31 (1) (f) of the *Acts Amendment (Public Service) Act 1987*.

7. Title amended under section 7 (5) (a) of the *Reprints Act 1984* to give effect to section 31 (1) (g) of the *Acts Amendment (Public Service) Act 1987*.

8. Now see *Industrial Relations Act 1979*.

9. Section 22 of No. 64 of 1987 reads as follows—

“ **Transitional**

22. (1) With effect on and from the commencement day—

(a) notwithstanding anything in the principal Act, a person who on that day was employed in or about a mine as a winding engine driver is deemed to be the holder of a winding engine driver's certificate of competency issued under and subject to the principal Act as amended by this Act; and

(b) the provisions of the *Machinery Safety Act 1974* cease to apply to and in relation to a person referred to in paragraph (a).

(2) in this section—

“commencement day” means the day on which sections 14 and 17 (a) of this Act come into operation. ”

10. As at the date of this reprint, Act No. 85 of 1990 was not in operation.