

MINES INSPECTION (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

THE objects of this Bill are—

- (a) to make mining operations carried on by dredges subject to the Mines Inspection Act, 1901 ("the Principal Act"), and general rules in the same way as mining operations carried on by other machinery are so subject rather than by making specified provisions applicable to dredges (Schedules 1 (2) and (3) and 7);
- (b) to require every mine (instead of only certain below ground mines) to be under a qualified manager and to state the qualifications (which differ according to the number of persons employed in or about a mine) that a person must have in order to manage a mine (Schedule 2);
- (c) to enable an inspector to order the owner or manager of a mine to withdraw men from the mine or part of the mine if there is a serious threat to their safety or health and to make the offence of failing to comply with such an order subject to a penalty of \$10,000 per day (Schedule 3 (3));
- (d) to require the Minister's consent before proceedings can be instituted for failing to comply with an order referred to in paragraph (c) (Schedule 6 (4));
- (e) to prohibit the owners of abandoned mines and certain other mines from allowing tourist activities to be conducted in or about their mines or allowing their mines to be used principally for educational purposes except as authorised by a permit (Schedule 4);
- (f) to enable miners at above ground as well as below ground mines to appoint representatives who may inspect the mines and associated machinery (Schedule 5 (1) (a));
- (g) to enable proceedings under the Principal Act to be brought before a court of petty sessions or the Supreme Court in its summary jurisdiction (Schedule 6 (2));
- (h) to regulate the circumstances in which persons may disclose information obtained in connection with the administration or execution of, or in the exercise of a power conferred by, the Principal Act (Schedule 6 (7));
- (i) to generally increase the penalties for offences against the Principal Act (Schedules 2 (1) (h) and (i), 3 (2) (a), (b), (5) and (8) and 6 (1) and (6));

MINES INSPECTION (AMENDMENT) BILL, 1978

No. , 1978.

A BILL FOR

An Act to amend the Mines Inspection Act, 1901, in relation to mining operations carried on by dredges, the appointment of mine managers, the powers of inspectors, the use of certain mines for tourist or educational activities and the penalties that may be imposed under that Act, and in other respects.

[MR MULOCK—7 December, 1978.]

Mines Inspection (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the “Mines Inspection (Amend- Short title.
ment) Act, 1978”.

2. (1) Except as provided in subsections (2) and (3), this Commence-
Act shall commence on the date of assent to this Act. ment.

 (2) Section 5, in its application to Schedule 2, and Schedule
10 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

 (3) Section 5, in its application to Schedule 8 (2) (a) and
15 (c), (8), (9), (15), (16), (17) and (19), and Schedule 8 (2) (a) and (c), (8), (9), (15), (16), (17) and (19) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act contains the following Schedules :— Schedules.

20 **SCHEDULE 1.—AMENDMENTS TO PART I OF THE
PRINCIPAL ACT.**

**SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PRINCIPAL ACT.**

25 **SCHEDULE 3.—AMENDMENTS TO PART IV OF THE
PRINCIPAL ACT.**

Mines Inspection (Amendment).

SCHEDULE 4.—INSERTION OF PART IVA INTO THE
PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO PART VI OF THE
PRINCIPAL ACT.

5 SCHEDULE 6.—AMENDMENTS TO PART VII OF THE
PRINCIPAL ACT.

SCHEDULE 7.—REPEAL OF SCHEDULE III TO THE
PRINCIPAL ACT.

10 SCHEDULE 8.—AMENDMENTS TO THE PRINCIPAL ACT BY
WAY OF STATUTE LAW REVISION.

SCHEDULE 9.—SAVINGS AND TRANSITIONAL PROVISIONS.

4. The Mines Inspection Act, 1901, is referred to in this Act
as the Principal Act. Principal Act.

5. The Principal Act is amended in the manner set forth in
15 Schedules 1-8. Amendment of Act No. 75, 1901.

6. Schedule 9 has effect.

Savings and
transitional
provisions.

Mines Inspection (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 2—

After the matter relating to Part IV, insert:—

5 PART IVA.—TOURIST AND EDUCATIONAL
 ACTIVITIES—ss. 48A–48D.

(b) Section 2—

From the matter relating to Part VII, omit “80”
wherever occurring, insert instead “81”.

10 (2) (a) Section 4 (1), definition of “Dredge”—

Omit the definition.

(b) Section 4 (1), definition of “Mine”—

After paragraph (a), insert:—

15 (a1) any place where mining operations are carried
 out by means of dredging, pumping, sluicing
 or any similar method;

(c) Section 4 (1), definition of “Machinery”—

After “engines,”, insert “dredges,”.

(d) Section 4 (1), definition of “Treatment”—

20 Omit “or a quarry”.

(3) Section 4A—

Omit the section.

Mines Inspection (Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 5 (1)—

5 Omit “in which more than ten persons are employed below ground”.

(b) Section 5 (3)—

10 After “managers”, insert “, or of a certificate of service as manager granted under this Act, being in each case a certificate that relates to a class of mine of which the mine is a member”.

(c) Section 5 (4)—

Omit “Provided that where the total number of persons employed below ground”, insert instead “Where the total number of persons employed”.

15 (d) Section 5 (4)—

Omit “The Minister”, insert instead “An inspector, upon the payment of such fee as the Minister may direct,”.

(e) Section 5 (4)—

20 Omit “board of examiners of managers”, insert instead “inspector”.

(f) Section 5 (5)—

Omit “Provided also that if”, insert instead “Where”.

(g) Section 5 (5A)—

25 Omit “Provided also that where”, insert instead “Where”.

(h) Section 5 (6)—

Omit “one hundred dollars”, insert instead “\$250”.

Mines Inspection (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(i) Section 5 (6)—

Omit “ten dollars”, insert instead “\$50”.

5 (2) (a) Section 6 (2) (a)—

After “board”, insert “and its membership in relation to any particular proceedings”.

(b) Section 6 (3)—

After section 6 (2), insert :—

10 (3) Rules made under subsection (2) may be made so as to apply differently in respect of different classes of mines or any other matter specified in the rules.

(3) Section 7 (2), (3)—

15 At the end of section 7, insert :—

(2) The Minister shall specify in a certificate granted under subsection (1) the class of mine to which it relates.

20 (3) A certificate that was granted under subsection (1) before the commencement of Schedule 2 to the Mines Inspection (Amendment) Act, 1978, and that had not been cancelled before that commencement shall, on and from that commencement, be deemed to relate to a below ground mine.

Mines Inspection (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(4) Section 8—

After section 7, insert :—

5 8. (1) A certificate of service as manager that relates ^{Grant of} to an above ground mine shall be granted by the Minister ^{certificate} of service to a person who satisfies the board of examiners of ^{as manager} of managers that he has had satisfactory experience in New ^{of above} South Wales, before the commencement of Schedule 2 to ^{ground} the Mines Inspection (Amendment) Act, 1978, in the ^{mine.} capacity of manager of an above ground mine in or about which more than 20 persons were ordinarily employed.

10

(2) A certificate of service granted under subsection
(1) shall—

- 15 (a) specify the class of above ground mine to which it relates;
- (b) contain particulars of the length and nature of the previous service, in respect of the class of mine to which the certificate relates, of the person to whom the certificate is granted; and
- 20 (c) for the purposes of this Act, have the same effect as a certificate of competency as manager granted under this Act.

25 (3) The holder of a certificate of service granted under subsection (1) may be registered upon the payment of such fee as the Minister may direct.

Mines Inspection (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(5) Section 9 (3), (4)—

After section 9 (2), insert :—

5 (3) The board of examiners of managers shall, when it approves a certificate under subsection (1), specify in the instrument of approval the class of mine to which the certificate relates.

10 (4) A certificate that was approved under subsection (1) before the commencement of Schedule 2 to the Mines Inspection (Amendment) Act, 1978, and that had not been cancelled before that commencement shall, on and from that commencement, be deemed to relate to a below ground mine.

15 (6) Section 10—

After “competency”, insert “or service”.

(7) Section 11—

After “competency”, insert “or service”.

(8) Section 23 (1)—

20 After “competency”, insert “or service”.

(9) Section 24 (a)—

After “competency”, insert “or service”.

Mines Inspection (Amendment).

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) Section 35—

Omit the section.

5 (2) (a) Section 37 (1)—

Omit “one hundred dollars”, insert instead “\$250”.

(b) Section 37 (1)—

Omit “ten dollars”, insert instead “\$50”.

(c) Section 37 (2)—

10 Omit “Minister”, insert instead “Chief Inspector, who may transmit a copy of the notice to the Minister”.

(3) Section 37A—

After section 37, insert :—

15 37A. (1) Where an inspector is of the opinion that the safety or health of persons employed in or about a mine or part of a mine is seriously threatened as a consequence of— Order to withdraw men from mine.

(a) a contravention of the provisions of this Act, the general rules or any special rules applicable to the mine; or

20 (b) any matter, thing or practice required to be remedied under section 37 (1),

the inspector may, by an order in writing served on the owner or manager of the mine, require the owner or manager—

25 (c) to withdraw forthwith from the mine or part of the mine, as the case may be, the persons employed in or about the mine or part; and

Mines Inspection (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(d) not to employ any persons in or about the mine or part of the mine, as the case may be, until—

5 (i) the contravention of this Act, the general rules or the special rules specified in the order has ceased or, as the case may be, the matter, thing or practice so specified has been remedied; or

10 (ii) the order is revoked under subsection (2),

whichever first occurs.

15 (2) An order under subsection (1) may be revoked by the Minister, by the Chief Inspector or by the inspector who served the order, by notice in writing served on the owner or manager of the mine to which the order relates.

20 (3) An order served on the owner or manager of a mine under subsection (1) does not apply to persons employed in or about the mine for the purpose of bringing about compliance with the provisions of this Act, the general rules or the special rules or remedying the matter, thing or practice, as the case may be, specified in the order.

25 (4) An owner or manager who fails to comply with an order under subsection (1) is, unless the court is satisfied that the inspector had no reasonable grounds for serving the order, guilty of an offence against this Act and, in respect of each day on which the failure occurs, liable to a penalty not exceeding \$10,000.

30 (4) Section 41 (5)—

Omit “or divulge any information derived therefrom without the authority of the owner or manager”.

Mines Inspection (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(5) Section 42 (2)—

Omit “sixty dollars”, insert instead “\$500”.

5 (6) (a) Section 42A (1)—

Omit “, quarry, or dredge,”.

(b) Section 42A (3)—

Omit “, quarries or dredges”.

(c) Section 42A (3)—

10 Omit “, quarry or dredge”.

(7) Section 42B—

Omit “, quarry or dredge” wherever occurring.

(8) (a) Section 48 (1)—

Omit “forty dollars”, insert instead “\$200”.

15 (b) Section 48 (1)—

Omit “ten dollars”, insert instead “\$50”.

Mines Inspection (Amendment).

SCHEDULE 4.

Sec. 5.

INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

After Part IV, insert :—

PART IVA.

5 TOURIST AND EDUCATIONAL ACTIVITIES.

48A. In this Part—

“mine” means—

- (a) a mine; or
- (b) an abandoned mine,

Interpreta-
tion:
Part IVA.

10 that is not the subject of a mining lease under the Mining Act, 1973;

“permit” means a permit that has been issued under section 48C and that has not been revoked under section 48D.

15 48B. The owner of a mine shall not allow tourist activities to be conducted in or about the mine or allow the mine to be used principally for educational purposes unless—

Tourist and
educational
activities
in certain
mines to be
authorised
by permit.

20 (a) the tourist activities or the use of the mine principally for educational purposes, as the case may be, are or is authorised by a permit issued to that or any previous owner of the mine; and

(b) he complies with the conditions (if any) to which the permit is subject.

Penalty: \$500.

25 48C. (1) The Minister may, upon application being made to him in writing, issue a permit to the owner of a mine that authorises tourist activities to be conducted in or about the mine, or authorises the mine to be used principally for educational purposes, subject to such conditions (if any) as
30 the Minister may specify in the permit.

Issue of
permits.

Mines Inspection (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

5 (2) A permit shall not be issued under this section in respect of a mine unless the Minister is satisfied that persons can enter the mine without risk to their safety or health.

48D. (1) The Minister may—

Revocation
of permits,
etc.

10 (a) revoke a permit where a condition to which the permit is subject is breached or where the Minister is satisfied that persons can no longer enter the mine to which the permit relates without risk to their safety or health; or

(b) from time to time vary the conditions to which a permit is subject.

15 (2) A variation may be made under subsection (1) (b) by way of attachment, amendment or deletion of conditions.

20 (3) A revocation under subsection (1) (a) or variation under subsection (1) (b) does not take effect until notice of the revocation or variation is served on the owner of the mine to which the permit relates.

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) (a) Section 55 (6) (b)—

25 Omit “not being mining engineers, who are practical miners, to inspect the mine at their own cost; and either or both of the persons so appointed shall be allowed, at any time while men are working below ground, accompanied by an official of the mine, to go to every part of the mine and to inspect the shafts, levels, drives, cross-cuts, stopes, winzes, raises, old

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Mines Inspection (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

- 5 workings, and machinery”, insert instead “not being persons employed in the mine, but being persons who have had practical experience in the type of mining operations being carried on at the mine, to enter the mine while it is in operation and to inspect, at their own cost, any part of the mine and any machinery used in or about the mine”.
- 10 (b) Section 55 (6) (b)—
Omit “When on such investigation the inspector is satisfied that danger exists in the mine, mining operations shall not be resumed in such part or parts of the mine as the inspector may specify until the inspector is satisfied that the danger has ceased to exist.”.
- 15 (c) Section 55 (36)—
Omit “or quarry”.
- (d) Section 55 (64)—
Omit the rule.
- 20 (e) Section 55 (65A)—
Omit “or quarry”.
- (f) Section 55 (65A)—
Omit “, quarry,”.
- (g) Section 55 (67)—
25 Omit the rule.
- (2) (a) Section 56 (1) (b) (vi)—
Omit “treated;”, insert instead “treated.”.
- (b) Section 56 (1) (b) (vii)—
Omit the subparagraph.
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Mines Inspection (Amendment).

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) (a) Section 67 (2)—

Omit “two hundred dollars”, insert instead “\$500”.

5 (b) Section 67 (2)—

Omit “fifty dollars”, insert instead “\$200”.

(c) Section 67 (2)—

Omit “forty dollars”, insert instead “\$100”.

(2) Section 69—

10 Omit the section, insert instead :—

69. (1) Proceedings for an offence against this Act, ^{Proceedings for offences.} section 24 excepted, may be taken before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

15 (2) If proceedings in respect of an offence against this Act are brought in a court of petty sessions held before a stipendiary magistrate the maximum penalty that the court may impose in respect of the offence is, notwithstanding
20 any other provision of this Act, \$2,000 (including any daily penalty) or the maximum penalty provided by this Act in respect of the offence, whichever is the lesser.

(3) If proceedings in respect of an offence against this Act are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not
25 exceeding the maximum penalty provided by this Act in respect of the offence.

Mines Inspection (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(4) Proceedings in the Supreme Court in its summary jurisdiction in respect of an offence against this Act may be commenced only within 6 months after the offence was committed.

(3) Section 70—

Omit the section.

(4) Section 71 (3)—

After section 71 (2), insert :—

(3) Proceedings for an offence referred to in section 37A (4) shall not be instituted except with the consent of the Minister.

(5) (a) Section 73 (2)—

Omit “justice”, insert instead “court”.

(b) Section 73 (2)—

Omit “he”, insert instead “it”.

(6) (a) Section 80 (1)—

Omit “two hundred dollars”, insert instead “\$500”.

(b) Section 80 (3)—

Omit the subsection.

(c) Section 80 (4)—

Omit “, and any person who acts contrary to such declaration, shall be liable to a fine not exceeding twenty dollars”, insert instead “shall be liable to a fine not exceeding \$100”.

Mines Inspection (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(7) Section 81—

After section 80, insert:—

- 5 81. (1) A person shall not disclose any information ^{Disclosure} obtained by him in connection with the administration or ^{of infor-} execution of this Act or in the exercise of any power ^{mation.} conferred by this Act, unless the disclosure is made—
- 10 (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act or in the exercise of any power conferred by this Act;
- 15 (c) for the purposes of any legal proceedings arising out of this or any other Act or of any report of any such proceedings;
- (d) for the purposes of any inquiry or proceedings conducted by a warden under this or any other Act; or
- 20 (e) with the concurrence of the Minister.
- (2) A person shall not use for the purposes of personal gain any information obtained by him in connection with the administration or execution of this Act or in the exercise of any power conferred by this Act.
- 25 Penalty: \$1,000.

Mines Inspection (Amendment).

SCHEDULE 7.

Sec. 5.

REPEAL OF SCHEDULE III TO THE PRINCIPAL ACT.

Schedule III—

Omit the Schedule.

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SCHEDULE 8.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION.

(1) (a) Section 2—

10

From the matter relating to Part I, omit “4”, insert
instead “4B”.

(b) Section 2—

Omit the matter relating to Division 4 of Part IV.

(c) Section 2—

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From the matter relating to Division 2 of Part VI,
omit “ss. 58–64”, insert instead “s. 58”.

(2) (a) Section 4 (1), definition of “Check inspector”—

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Omit “paragraph (b) of general rule six of section
fifty-five of this Act”, insert instead “the general rules,
by the persons employed in a mine, to inspect the
mine”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

- 5 (b) Section 4 (1), definition of “Division”—
Omit the definition.
- (c) Section 4 (1), definition of “General rule”—
Before the definition of “Inspector”, insert:—
“General rule” means general rule made or deemed
to be made under section 56.
- 10 (d) Section 4 (1), definition of “Metal” and “mineral”—
Omit “as amended by subsequent Acts,”.
- (e) Section 4 (1), definition of “Treatment”—
Omit “; and ‘treat’ and derivatives therefrom have a
corresponding meaning”.
- 15 (f) Section 4 (1), definition of “Warden”—
Omit “, or any Act amending or repealing the same”.
- (3) Section 12 (1)—
Omit “paragraph (g) of subsection two of section thirteen
of this Act”, insert instead “section 13 (2) (g)”.
- 20 (4) Section 14 (1)—
Omit “paragraphs (d), (e) and (f) of subsection two of
section thirteen of this Act”, insert instead “section 13 (2)
(d), (e) and (f)”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(5) Section 20 (1)—

5 Omit “or Police”.

(6) Section 24—

Omit “, with or without hard labour”.

(7) Section 31 (3)—

10 Omit “either of the two next preceding sections”, insert
instead “section 29 or 30”.

(8) Section 36 (a)—

After “Act”, insert “and the general rules and special rules
(if any) in force therein”.

(9) Section 37 (1)—

15 After “or by any”, insert “general or”.

(10) Section 42A (2)—

Omit “of the Department of Mines”.

(11) Section 43 (2)—

20 Omit “paragraph (b) of subsection one of this section”,
insert instead “subsection (1) (b)”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(12) Section 48 (3)—

5 Omit the subsection, insert instead :—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

10 (13) Section 49—

Omit “division”, insert instead “Part”.

(14) (a) Section 55 (2)—

15 Omit “Notwithstanding anything to the contrary contained in the Explosives Act, 1905, as amended by subsequent Acts, explosives”, insert instead “Explosives”.

(b) Section 55 (2) (a) (iii)—

Omit “liable to a penalty not exceeding one hundred dollars”, insert instead “guilty of an offence”.

20 (c) Section 55 (2) (d) (i)—

After “section 26 (4)”, insert “of the Mines Inspection Act, 1901,”.

(d) Section 55 (4)—

25 Omit “against this Act, and be liable to a penalty of not less than four dollars”.

(e) Section 55 (6) (b)—

Omit “the Act”, insert instead “the Mines Inspection Act, 1901,”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

- (f) Section 55 (9CC) (d)—
5 After section 55 (9CC) (c), insert :—

 (d) A person who fails to comply with an order
 under paragraph (a) shall be guilty of an
 offence.
- (g) Section 55 (10) (a), definition of “Boiler inspector”—
10 Omit “this Act”, insert instead “the Mines Inspection
 Act, 1901,”.
- (h) Section 55 (10) (j)—
 Omit “against this Act”.
- (i) Section 55 (43)—
15 Omit “, provided after the commencement of this
 Act,”.
- (j) Section 55 (51)—
 Omit “this Act”, insert instead “the Mines Inspection
 Act, 1901, these rules”.
- (k) Section 55 (52)—
20 Omit “this Act” wherever occurring, insert instead
 “the Mines Inspection Act, 1901, or these rules”.
- (l) Section 55 (53)—
 Omit “this Act”, insert instead “the Mines Inspection
25 Act, 1901, or these rules”.
- (m) Section 55 (54) (b)—
 Omit “against this Act”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

- 5 (n) Section 55 (62)—
Omit “against this Act”.
- (o) Section 55 (67A) (e)—
Omit “against this Act”.
- 10 (p) Section 55 (67A) (g)—
Omit “this Act”, insert instead “the Mines Inspection
Act, 1901,”.
- (q) Section 55 (73)—
Omit “this Act”, insert instead “the Mines Inspection
Act, 1901”.
- 15 (15) Section 55—
Omit the section.
- (16) (a) Section 56 (1) (a)—
Omit the paragraph.
- (b) Section 56 (1) (b) (vi)—
20 Omit “any other matter dealt with in the general
rules hereinbefore set out; and”.
- (c) Section 56 (1A)—
After section 56 (1), insert :—
- 25 (1A) The general rules in force immediately before
the repeal of section 55 by the Mines Inspection
(Amendment) Act, 1978, shall, notwithstanding that
repeal, continue in force and shall be deemed to have
been made under subsection (1).

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(d) Section 56 (2)–(2B)—

5 Omit section 56 (2), insert instead :—

(2) A general rule may, with such adaptations (if
any) as are specified therein, adopt by reference any
specified document or specified part of a document,
10 but only to the extent that the document or part
contains provisions for or with respect to which a
general rule may be made.

(2A) A provision of a general rule may—

(a) apply generally or be limited in its appli-
cation by reference to specified exceptions
15 or factors;

(b) apply differently according to different
factors of a specified kind; or

(c) authorise any matter or thing to be from
time to time determined, applied or
20 regulated by any specified person or body,
or may do any combination of those things.

(2B) Section 41 of the Interpretation Act, 1897,
applies in respect of a general rule made under this
section as if this Act had been passed after the
25 commencement of the Interpretation (Amendment)
Act, 1969.

(e) Section 56 (3)—

Omit “Such”, insert instead “Subject to subsection
(4), the general”.

30 (f) Section 56 (3), proviso—

Omit the proviso.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(g) Section 56 (4)—

5 After section 56 (3), insert:—

(4) The Governor may, by proclamation published in the Gazette, exempt any mine or class of mine or any part of a mine from the operation of the general rules or any of them, either without conditions, or during the time and on the conditions specified in the proclamation.

(17) Section 57—

Omit “hereinbefore set out, or any of such rules as amended, or any general rule made under this Act.”.

15 (18) Section 58 (1A), (1B)—

Omit section 58 (1A), insert instead:—

(1A) A provision of a special rule may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 20 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

25 or may do any combination of those things.

(1B) Subject to subsection (4), section 41 of the Interpretation Act, 1897, applies in respect of a special rule made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

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Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(19) (a) Section 65—

- 5 After “this Act” where firstly occurring, insert “, the general rules”.

(b) Section 65—

After “this Act” where secondly occurring, insert “and the general rules”.

10 (c) Section 65 (a)—

Omit “the Act and copy of the rules”, insert instead “this Act and the general rules and the copy of the special rules”.

(20) Section 67 (3)—

- 15 After section 67 (2), insert: —

(3) The penalty for an offence against this Act relating to the storage or use of explosives in or about a mine is a fine not exceeding \$1,000.

(21) Section 68—

- 20 Omit “with or without hard labour”.

(22) Section 79—

Omit the section.

Mines Inspection (Amendment).

SCHEDULE 9.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. Nothing in section 5 of the Principal Act, as amended by this Act, Managers prevents a person who was, immediately before the commencement of of mines. 5 Schedule 2, managing—

- (a) a mine (whether above or below ground) in or about which 20 or fewer persons were employed from managing that mine until the date that is 1 month after that commencement; or
- 10 (b) an above ground mine in or about which more than 20 persons were employed from managing that mine until the date that is 12 months after that commencement.

2. Notwithstanding anything in section 48B of the Principal Act, as Tourist and amended by this Act, a person is not guilty of an offence under that section educational activities. in respect of any act done or omitted to be done at a mine before—

- 15 (a) the day that is 1 month after the commencement of that section; or
- (b) where an application is made after that commencement and before the day referred to in paragraph (a) for a permit under section 48c of the Principal Act, as so amended, in respect of the mine—
 - (i) the day on which the permit is issued; or
 - 20 (ii) the day on which the applicant is notified that a permit will not be issued in respect of the mine,

as the case may be,
whichever day is the later.

3. A proclamation made under section 55 or 56 (3) of the Principal General 25 Act and in force immediately before the commencement of Schedule 8 rules— (15) and (16) shall, on and after that commencement, be deemed to be a exemption of mines. proclamation made under section 56 (4) of the Principal Act, as amended by this Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[56c]

Alaska Department of Transportation

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**MINES INSPECTION (AMENDMENT) ACT, 1978,
No. 145**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 145, 1978.

An Act to amend the Mines Inspection Act, 1901, in relation to mining operations carried on by dredges, the appointment of mine managers, the powers of inspectors, the use of certain mines for tourist or educational activities and the penalties that may be imposed under that Act, and in other respects. [Assented to, 29th December, 1978.]

Mines Inspection (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Mines Inspection (Amendment) Act, 1978".

**Commence-
ment.** **2.** (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 2, and Schedule 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 5, in its application to Schedule 8 (2) (a) and (c), (8), (9), (15), (16), (17) and (19), and Schedule 8 (2) (a) and (c), (8), (9), (15), (16), (17) and (19) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE
PRINCIPAL ACT.

Mines Inspection (Amendment).

SCHEDULE 4.—INSERTION OF PART IVA INTO THE
PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO PART VI OF THE
PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART VII OF THE
PRINCIPAL ACT.

SCHEDULE 7.—REPEAL OF SCHEDULE III TO THE
PRINCIPAL ACT.

SCHEDULE 8.—AMENDMENTS TO THE PRINCIPAL ACT BY
WAY OF STATUTE LAW REVISION.

SCHEDULE 9.—SAVINGS AND TRANSITIONAL PROVISIONS.

4. The Mines Inspection Act, 1901, is referred to in this Act as the Principal Act. Principal Act.

5. The Principal Act is amended in the manner set forth in Schedules 1–8. Amendment of Act No. 75, 1901.

6. Schedule 9 has effect. Savings and transitional provisions.

Mines Inspection (Amendment).

Sec. 5.

SCHEDULE 1.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 2—

After the matter relating to Part IV, insert:—

PART IVA.—TOURIST AND EDUCATIONAL
ACTIVITIES—ss. 48A–48D.

(b) Section 2—

From the matter relating to Part VII, omit “80”
wherever occurring, insert instead “81”.

(2) (a) Section 4 (1), definition of “Dredge”—

Omit the definition.

(b) Section 4 (1), definition of “Mine”—

After paragraph (a), insert:—

(a1) any place where mining operations are carried
out by means of dredging, pumping, sluicing
or any similar method;

(c) Section 4 (1), definition of “Machinery”—

After “engines,” insert “dredges,”.

(d) Section 4 (1), definition of “Treatment”—

Omit “or a quarry”.

(3) Section 4A—

Omit the section.

Mines Inspection (Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 5 (1)—

Omit “in which more than ten persons are employed below ground”.

(b) Section 5 (3)—

After “managers”, insert “, or of a certificate of service as manager granted under this Act, being in each case a certificate that relates to a class of mine of which the mine is a member”.

(c) Section 5 (4)—

Omit “Provided that where the total number of persons employed below ground”, insert instead “Where the total number of persons employed”.

(d) Section 5 (4)—

Omit “The Minister”, insert instead “An inspector, upon the payment of such fee as the Minister may direct,”.

(e) Section 5 (4)—

Omit “board of examiners of managers”, insert instead “inspector”.

(f) Section 5 (5)—

Omit “Provided also that if”, insert instead “Where”.

(g) Section 5 (5A)—

Omit “Provided also that where”, insert instead “Where”.

(h) Section 5 (6)—

Omit “one hundred dollars”, insert instead “\$250”.

Mines Inspection (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(i) Section 5 (6)—

Omit “ten dollars”, insert instead “\$50”.

(2) (a) Section 6 (2) (a)—

After “board”, insert “and its membership in relation to any particular proceedings”.

(b) Section 6 (3)—

After section 6 (2), insert :—

(3) Rules made under subsection (2) may be made so as to apply differently in respect of different classes of mines or any other matter specified in the rules.

(3) Section 7 (2), (3)—

At the end of section 7, insert :—

(2) The Minister shall specify in a certificate granted under subsection (1) the class of mine to which it relates.

(3) A certificate that was granted under subsection (1) before the commencement of Schedule 2 to the Mines Inspection (Amendment) Act, 1978, and that had not been cancelled before that commencement shall, on and from that commencement, be deemed to relate to a below ground mine.

Mines Inspection (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(4) Section 8—

After section 7, insert :—

8. (1) A certificate of service as manager that relates to an above ground mine shall be granted by the Minister to a person who satisfies the board of examiners of managers that he has had satisfactory experience in New South Wales, before the commencement of Schedule 2 to the Mines Inspection (Amendment) Act, 1978, in the capacity of manager of an above ground mine in or about which more than 20 persons were ordinarily employed.

Grant of
certificate
of service
as manager
of above
ground
mine.

(2) A certificate of service granted under subsection (1) shall—

- (a) specify the class of above ground mine to which it relates;
- (b) contain particulars of the length and nature of the previous service, in respect of the class of mine to which the certificate relates, of the person to whom the certificate is granted; and
- (c) for the purposes of this Act, have the same effect as a certificate of competency as manager granted under this Act.

(3) The holder of a certificate of service granted under subsection (1) may be registered upon the payment of such fee as the Minister may direct.

Mines Inspection (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(5) Section 9 (3), (4)—

After section 9 (2), insert :—

(3) The board of examiners of managers shall, when it approves a certificate under subsection (1), specify in the instrument of approval the class of mine to which the certificate relates.

(4) A certificate that was approved under subsection (1) before the commencement of Schedule 2 to the Mines Inspection (Amendment) Act, 1978, and that had not been cancelled before that commencement shall, on and from that commencement, be deemed to relate to a below ground mine.

(6) Section 10—

After “competency”, insert “or service”.

(7) Section 11—

After “competency”, insert “or service”.

(8) Section 23 (1)—

After “competency”, insert “or service”.

(9) Section 24 (a)—

After “competency”, insert “or service”.

Mines Inspection (Amendment).

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) Section 35—

Omit the section.

(2) (a) Section 37 (1)—

Omit “one hundred dollars”, insert instead “\$250”.

(b) Section 37 (1)—

Omit “ten dollars”, insert instead “\$50”.

(c) Section 37 (2)—

Omit “Minister”, insert instead “Chief Inspector, who may transmit a copy of the notice to the Minister”.

(3) Section 37A—

After section 37, insert :—

37A. (1) Where an inspector is of the opinion that the safety or health of persons employed in or about a mine or part of a mine is seriously threatened as a consequence of—

Order to
withdraw
men from
mine.

(a) a contravention of the provisions of this Act, the general rules or any special rules applicable to the mine; or

(b) any matter, thing or practice required to be remedied under section 37 (1),

the inspector may, by an order in writing served on the owner or manager of the mine, require the owner or manager—

(c) to withdraw forthwith from the mine or part of the mine, as the case may be, the persons employed in or about the mine or part; and

Mines Inspection (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(d) not to employ any persons in or about the mine or part of the mine, as the case may be, until—

(i) the contravention of this Act, the general rules or the special rules specified in the order has ceased or, as the case may be, the matter, thing or practice so specified has been remedied; or

(ii) the order is revoked under subsection (2),

whichever first occurs.

(2) An order under subsection (1) may be revoked by the Minister, by the Chief Inspector or by the inspector who served the order, by notice in writing served on the owner or manager of the mine to which the order relates.

(3) An order served on the owner or manager of a mine under subsection (1) does not apply to persons employed in or about the mine for the purpose of bringing about compliance with the provisions of this Act, the general rules or the special rules or remedying the matter, thing or practice, as the case may be, specified in the order.

(4) An owner or manager who fails to comply with an order under subsection (1) is, unless the court is satisfied that the inspector had no reasonable grounds for serving the order, guilty of an offence against this Act and, in respect of each day on which the failure occurs, liable to a penalty not exceeding \$10,000.

(4) Section 41 (5)—

Omit “or divulge any information derived therefrom without the authority of the owner or manager”.

Mines Inspection (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(5) Section 42 (2)—

Omit “sixty dollars”, insert instead “\$500”.

(6) (a) Section 42A (1)—

Omit “, quarry, or dredge”.

(b) Section 42A (3)—

Omit “, quarries or dredges”.

(c) Section 42A (3)—

Omit “, quarry or dredge”.

(7) Section 42B—

Omit “, quarry or dredge” wherever occurring.

(8) (a) Section 48 (1)—

Omit “forty dollars”, insert instead “\$200”.

(b) Section 48 (1)—

Omit “ten dollars”, insert instead “\$50”.

Mines Inspection (Amendment).

Sec. 5.

SCHEDULE 4.

INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

After Part IV, insert :—

PART IVA.

TOURIST AND EDUCATIONAL ACTIVITIES.

Interpreta-
tion:
Part IVA.

48A. In this Part—

“mine” means—

- (a) a mine; or
- (b) an abandoned mine,

that is not the subject of a mining lease under the Mining Act, 1973;

“permit” means a permit that has been issued under section 48C and that has not been revoked under section 48D.

Tourist and
educational
activities
in certain
mines to be
authorised
by permit.

48B. The owner of a mine shall not allow tourist activities to be conducted in or about the mine or allow the mine to be used principally for educational purposes unless—

- (a) the tourist activities or the use of the mine principally for educational purposes, as the case may be, are or is authorised by a permit issued to that or any previous owner of the mine; and
- (b) he complies with the conditions (if any) to which the permit is subject.

Penalty: \$500.

Issue of
permits.

48C. (1) The Minister may, upon application being made to him in writing, issue a permit to the owner of a mine that authorises tourist activities to be conducted in or about the mine, or authorises the mine to be used principally for educational purposes, subject to such conditions (if any) as the Minister may specify in the permit.

Mines Inspection (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—*continued.*

(2) A permit shall not be issued under this section in respect of a mine unless the Minister is satisfied that persons can enter the mine without risk to their safety or health.

48D. (1) The Minister may—

Revocation
of permits,
etc.

(a) revoke a permit where a condition to which the permit is subject is breached or where the Minister is satisfied that persons can no longer enter the mine to which the permit relates without risk to their safety or health; or

(b) from time to time vary the conditions to which a permit is subject.

(2) A variation may be made under subsection (1) (b) by way of attachment, amendment or deletion of conditions.

(3) A revocation under subsection (1) (a) or variation under subsection (1) (b) does not take effect until notice of the revocation or variation is served on the owner of the mine to which the permit relates.

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) (a) Section 55 (6) (b)—

Omit “not being mining engineers, who are practical miners, to inspect the mine at their own cost; and either or both of the persons so appointed shall be allowed, at any time while men are working below ground, accompanied by an official of the mine, to go to every part of the mine and to inspect the shafts, levels, drives, cross-cuts, stopes, winzes, raises, old

Mines Inspection (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

workings, and machinery”, insert instead “not being persons employed in the mine, but being persons who have had practical experience in the type of mining operations being carried on at the mine, to enter the mine while it is in operation and to inspect, at their own cost, any part of the mine and any machinery used in or about the mine”.

(b) Section 55 (6) (b)—

Omit “When on such investigation the inspector is satisfied that danger exists in the mine, mining operations shall not be resumed in such part or parts of the mine as the inspector may specify until the inspector is satisfied that the danger has ceased to exist.”.

(c) Section 55 (36)—

Omit “or quarry”.

(d) Section 55 (64)—

Omit the rule.

(e) Section 55 (65A)—

Omit “or quarry”.

(f) Section 55 (65A)—

Omit “, quarry,”.

(g) Section 55 (67)—

Omit the rule.

(2) (a) Section 56 (1) (b) (vi)—

Omit “treated;”, insert instead “treated.”.

(b) Section 56 (1) (b) (vii)—

Omit the subparagraph.

Mines Inspection (Amendment).

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) (a) Section 67 (2)—

Omit “two hundred dollars”, insert instead “\$500”.

(b) Section 67 (2)—

Omit “fifty dollars”, insert instead “\$200”.

(c) Section 67 (2)—

Omit “forty dollars”, insert instead “\$100”.

(2) Section 69—

Omit the section, insert instead :—

69. (1) Proceedings for an offence against this Act, ^{Proceedings} section 24 excepted, may be taken before a court of petty ^{for offences.} sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

(2) If proceedings in respect of an offence against this Act are brought in a court of petty sessions held before a stipendiary magistrate the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, \$2,000 (including any daily penalty) or the maximum penalty provided by this Act in respect of the offence, whichever is the lesser.

(3) If proceedings in respect of an offence against this Act are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act in respect of the offence.

Mines Inspection (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(4) Proceedings in the Supreme Court in its summary jurisdiction in respect of an offence against this Act may be commenced only within 6 months after the offence was committed.

(3) Section 70—

Omit the section.

(4) Section 71 (3)—

After section 71 (2), insert :—

(3) Proceedings for an offence referred to in section 37A (4) shall not be instituted except with the consent of the Minister.

(5) (a) Section 73 (2)—

Omit “justice”, insert instead “court”.

(b) Section 73 (2)—

Omit “he”, insert instead “it”.

(6) (a) Section 80 (1)—

Omit “two hundred dollars”, insert instead “\$500”.

(b) Section 80 (3)—

Omit the subsection.

(c) Section 80 (4)—

Omit “, and any person who acts contrary to such declaration, shall be liable to a fine not exceeding twenty dollars”, insert instead “shall be liable to a fine not exceeding \$100”.

Mines Inspection (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(7) Section 81—

After section 80, insert:—

81. (1) A person shall not disclose any information ^{Disclosure of information.} obtained by him in connection with the administration or execution of this Act or in the exercise of any power conferred by this Act, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act or in the exercise of any power conferred by this Act;
- (c) for the purposes of any legal proceedings arising out of this or any other Act or of any report of any such proceedings;
- (d) for the purposes of any inquiry or proceedings conducted by a warden under this or any other Act; or
- (e) with the concurrence of the Minister.

(2) A person shall not use for the purposes of personal gain any information obtained by him in connection with the administration or execution of this Act or in the exercise of any power conferred by this Act.

Penalty: \$1,000.

Mines Inspection (Amendment).

Sec. 5.

SCHEDULE 7.

REPEAL OF SCHEDULE III TO THE PRINCIPAL ACT.

Schedule III—

Omit the Schedule.

Sec. 5.

SCHEDULE 8.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION.

(1) (a) Section 2—

From the matter relating to Part I, omit “4”, insert instead “4B”.

(b) Section 2—

Omit the matter relating to Division 4 of Part IV.

(c) Section 2—

From the matter relating to Division 2 of Part VI, omit “ss. 58–64”, insert instead “s. 58”.

(2) (a) Section 4 (1), definition of “Check inspector”—

Omit “paragraph (b) of general rule six of section fifty-five of this Act”, insert instead “the general rules, by the persons employed in a mine, to inspect the mine”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

- (b) Section 4 (1), definition of “Division”—
Omit the definition.
 - (c) Section 4 (1), definition of “General rule”—
Before the definition of “Inspector”, insert:—
“General rule” means general rule made or deemed
to be made under section 56.
 - (d) Section 4 (1), definition of “Metal” and “mineral”—
Omit “as amended by subsequent Acts.”.
 - (e) Section 4 (1), definition of “Treatment”—
Omit “; and ‘treat’ and derivatives therefrom have a
corresponding meaning”.
 - (f) Section 4 (1), definition of “Warden”—
Omit “, or any Act amending or repealing the same”.
- (3) Section 12 (1)—
Omit “paragraph (g) of subsection two of section thirteen
of this Act”, insert instead “section 13 (2) (g)”.
- (4) Section 14 (1)—
Omit “paragraphs (d), (e) and (f) of subsection two of
section thirteen of this Act”, insert instead “section 13 (2)
(d), (e) and (f)”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

- (5) Section 20 (1)—
Omit “or Police”.
- (6) Section 24—
Omit “, with or without hard labour”.
- (7) Section 31 (3)—
Omit “either of the two next preceding sections”, insert
instead “section 29 or 30”.
- (8) Section 36 (a)—
After “Act”, insert “and the general rules and special rules
(if any) in force therein”.
- (9) Section 37 (1)—
After “or by any”, insert “general or”.
- (10) Section 42A (2)—
Omit “of the Department of Mines”.
- (11) Section 43 (2)—
Omit “paragraph (b) of subsection one of this section”,
insert instead “subsection (1) (b)”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(12) Section 48 (3)—

Omit the subsection, insert instead :—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(13) Section 49—

Omit “division”, insert instead “Part”.

(14) (a) Section 55 (2)—

Omit “Notwithstanding anything to the contrary contained in the Explosives Act, 1905, as amended by subsequent Acts, explosives”, insert instead “Explosives”.

(b) Section 55 (2) (a) (iii)—

Omit “liable to a penalty not exceeding one hundred dollars”, insert instead “guilty of an offence”.

(c) Section 55 (2) (d) (i)—

After “section 26 (4)”, insert “of the Mines Inspection Act, 1901,”.

(d) Section 55 (4)—

Omit “against this Act, and be liable to a penalty of not less than four dollars”.

(e) Section 55 (6) (b)—

Omit “the Act”, insert instead “the Mines Inspection Act, 1901,”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(f) Section 55 (9cc) (d)—

After section 55 (9cc) (c), insert :—

(d) A person who fails to comply with an order under paragraph (a) shall be guilty of an offence.

(g) Section 55 (10) (a), definition of “Boiler inspector”—

Omit “this Act”, insert instead “the Mines Inspection Act, 1901,”.

(h) Section 55 (10) (j)—

Omit “against this Act”.

(i) Section 55 (43)—

Omit “, provided after the commencement of this Act,”.

(j) Section 55 (51)—

Omit “this Act”, insert instead “the Mines Inspection Act, 1901, these rules”.

(k) Section 55 (52)—

Omit “this Act” wherever occurring, insert instead “the Mines Inspection Act, 1901, or these rules”.

(l) Section 55 (53)—

Omit “this Act”, insert instead “the Mines Inspection Act, 1901, or these rules”.

(m) Section 55 (54) (b)—

Omit “against this Act”.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(n) Section 55 (62)—

Omit “against this Act”.

(o) Section 55 (67A) (e)—

Omit “against this Act”.

(p) Section 55 (67A) (g)—

Omit “this Act”, insert instead “the Mines Inspection Act, 1901.”.

(q) Section 55 (73)—

Omit “this Act”, insert instead “the Mines Inspection Act, 1901”.

(15) Section 55—

Omit the section.

(16) (a) Section 56 (1) (a)—

Omit the paragraph.

(b) Section 56 (1) (b) (vi)—

Omit “any other matter dealt with in the general rules hereinbefore set out; and”.

(c) Section 56 (1A)—

After section 56 (1), insert :—

(1A) The general rules in force immediately before the repeal of section 55 by the Mines Inspection (Amendment) Act, 1978, shall, notwithstanding that repeal, continue in force and shall be deemed to have been made under subsection (1).

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(d) Section 56 (2)–(2B)—

Omit section 56 (2), insert instead :—

(2) A general rule may, with such adaptations (if any) as are specified therein, adopt by reference any specified document or specified part of a document, but only to the extent that the document or part contains provisions for or with respect to which a general rule may be made.

(2A) A provision of a general rule may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

(2B) Section 41 of the Interpretation Act, 1897, applies in respect of a general rule made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(e) Section 56 (3)—

Omit “Such”, insert instead “Subject to subsection (4), the general”.

(f) Section 56 (3), proviso—

Omit the proviso.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(g) Section 56 (4)—

After section 56 (3), insert:—

(4) The Governor may, by proclamation published in the Gazette, exempt any mine or class of mine or any part of a mine from the operation of the general rules or any of them, either without conditions, or during the time and on the conditions specified in the proclamation.

(17) Section 57—

Omit “hereinbefore set out, or any of such rules as amended, or any general rule made under this Act,”.

(18) Section 58 (1A), (1B)—

Omit section 58 (1A), insert instead:—

(1A) A provision of a special rule may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(1B) Subject to subsection (4), section 41 of the Interpretation Act, 1897, applies in respect of a special rule made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Mines Inspection (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW
REVISION—*continued.*

(19) (a) Section 65—

After “this Act” where firstly occurring, insert “, the general rules”.

(b) Section 65—

After “this Act” where secondly occurring, insert “and the general rules”.

(c) Section 65 (a)—

Omit “the Act and copy of the rules”, insert instead “this Act and the general rules and the copy of the special rules”.

(20) Section 67 (3)—

After section 67 (2), insert: —

(3) The penalty for an offence against this Act relating to the storage or use of explosives in or about a mine is a fine not exceeding \$1,000.

(21) Section 68—

Omit “with or without hard labour”.

(22) Section 79—

Omit the section.

Mines Inspection (Amendment).

SCHEDULE 9.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. Nothing in section 5 of the Principal Act, as amended by this Act, **Managers** prevents a person who was, immediately before the commencement of **of mines.** Schedule 2, managing—

- (a) a mine (whether above or below ground) in or about which 20 or fewer persons were employed from managing that mine until the date that is 1 month after that commencement; or
- (b) an above ground mine in or about which more than 20 persons were employed from managing that mine until the date that is 12 months after that commencement.

2. Notwithstanding anything in section 48B of the Principal Act, as amended by this Act, a person is not guilty of an offence under that section **Tourist and** in respect of any act done or omitted to be done at a mine before— **educational activities.**

- (a) the day that is 1 month after the commencement of that section; or
- (b) where an application is made after that commencement and before the day referred to in paragraph (a) for a permit under section 48C of the Principal Act, as so amended, in respect of the mine—
 - (i) the day on which the permit is issued; or
 - (ii) the day on which the applicant is notified that a permit will not be issued in respect of the mine,

as the case may be,
whichever day is the later.

3. A proclamation made under section 55 or 56 (3) of the Principal Act and in force immediately before the commencement of Schedule 8 **General** (15) and (16) shall, on and after that commencement, be deemed to be a **rules—** proclamation made under section 56 (4) of the Principal Act, as amended **exemption** by this Act. **of mines.**

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 29th December, 1978.*

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