

## COAL MINES REGULATION BILL, 1982

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### EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:—

Coal Mining (Amendment) Bill, 1982;

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Bill, 1982.

The object of this Bill is to provide for a new legislative code for the regulation of coal mines (and oil shale and kerosene shale mines) and places connected or related thereto and, in particular, to make provisions, and authorise the making of subsidiary legislation, relating to the safety and health of persons employed in and about those mines and places. The provisions in the Bill apply to both underground and open cut mines and will replace the provisions of the Coal Mines Regulation Act, 1912, which is to be repealed by the proposed Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Act, 1982.

The Bill contains the following provisions:—

#### PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Application of Act.

Clause 5. Interpretation. Included in this clause are a definition of "mine" and provisions to allow the Minister to declare that certain places or things shall be deemed to be, or not to be, parts of a mine for the purposes of the proposed Act. The clause (with Schedule 1) also defines who are mining officials for the purposes of the proposed Act and provides for the alteration of Schedule 1 by way of regulation.

Clause 6 provides that the proposed Act will bind the Crown.

## PART II.—ADMINISTRATION.

DIVISION 1.—*Departmental inspectors.*

Clause 7 provides for the appointment of a Chief Inspector of Coal Mines and other inspectors of coal mines.

Clause 8 sets out the qualifications to be held by inspectors.

Clause 9 requires inspectors to disclose any financial interests held in mines and to dispose of those interests if directed to do so.

Clause 10 sets out the general functions of inspectors.

Clause 11 provides for the appointment of an acting Chief Inspector of Coal Mines.

Clause 12 requires certain inspectors to make annual reports of their activities.

DIVISION 2.—*Coal Mining Qualifications Board.*

Clause 13 provides for the constitution of a Coal Mining Qualifications Board ("the Board").

Clause 14 sets out the general functions of the Board which include the determination of the qualifications necessary for the grant of certificates of competency for the purposes of the proposed Act and the conducting of examinations for certificates of competency.

Clause 15 relates to the remuneration of examiners appointed by the Board.

Clause 16 provides that the expenses of the Board shall be defrayed out of money provided by Parliament.

Clause 17 requires the Board to make an annual report of its proceedings.

Clause 18 and Schedule 2 set out provisions relating to the members and procedure of the Board.

DIVISION 3.—*Certificates of competency.*

Clause 19 authorises the Minister, on the recommendation of the Board, to grant certain certificates of competency. These include, for example, a certificate of competency to be a manager of a mine, a certificate of competency to be an under-manager of a mine, a certificate of competency to be a manager of an open cut mine and a certificate of competency to be a deputy.

Clause 20 relates to the holding of examinations and to qualifications for the grant of certificates of competency.

Clause 21 provides that a person may be appointed to a position at a mine notwithstanding that he holds a certificate of competency of a higher class than the position requires.

Clause 22 relates to the keeping of a register of holders of certificates of competency.

Clause 23 authorises the Board, with the consent of the Minister, to make rules with respect to certain matters related to the granting of certificates of competency.

Clause 24 authorises the making of certain regulations relating to certificates of competency.

#### DIVISION 4.—*Suspension or cancellation of certificates of competency.*

Clause 25 authorises the Chief Inspector to serve on a person who holds a certificate of competency a notice to show cause why the person's certificate should not be suspended or cancelled in certain circumstances where the Chief Inspector is of the opinion that the person is unfit to hold the certificate.

Clause 26 provides for the suspension or cancellation of a certificate of competency by the Minister where a person declines to show cause as referred to in clause 25 and for referral of the matter to a Court of Coal Mines Regulation ("a court") where a person intends to show cause as so referred to (or where he has declined to show cause but the Minister directs, in effect, that the matter should be heard by a court).

Clause 27 requires a court to hear and determine "show cause" matters referred to it and to make recommendations to the Minister as to the suspension or cancellation of certificates.

Clause 28 permits a court to make interim orders of suspension or restriction in respect of certificates of competency.

Clause 29 requires the surrender of suspended or cancelled certificates.

Clause 30 relates to the restoration of certificates.

Clause 31 requires the Minister to give effect to a court's recommendations.

### PART III.—MANAGEMENT OF MINES.

#### DIVISION 1.—*Management generally.*

Clause 32 sets out the general obligations of mine owners.

Clause 33 provides that a person whose functions will involve the issuing of instructions directly or indirectly affecting the safety or health of persons employed at a mine shall not be appointed to a position at or in respect of the mine unless he is appointed as a mining official (that is, a superintendent, a manager, an under-manager, a deputy, etc.) under the proposed Act. Subclause (3) of this clause (together with Schedule 1) prescribes the order of seniority of mining officials at a mine for the purposes of the proposed legislation.

Clause 34 provides that the owner of a mine may appoint a superintendent of the mine. This appointment is not compulsory but if a superintendent is appointed he must be qualified to be a manager of the mine.

Clause 35 provides for the optional appointment of assistant superintendents who must also be qualified to be a manager if appointed.

Clause 36 prohibits the owner of a mine from working the mine unless a person has been appointed as the manager of the mine under the proposed Act. Except in the case of small underground mines, which have lesser requirements, a manager of an underground mine must hold a certificate of competency to be a manager. The manager of an open cut mine must hold a certificate of competency to be a manager or a certificate of competency to be a manager of an open cut mine. An owner may nominate himself as manager if he holds the required certificate.

Clause 37 sets out the general functions of a manager of a mine.

Clause 38 provides for the optional appointment of deputy managers of mines.

Clause 39 provides for the appointment of under-managers in charge of mines and requires, in certain cases, an under-manager in charge or a number of under-managers in charge to be appointed to a mine.

Clause 40 provides for the optional appointment of under-managers of mines.

Clause 41 sets out the general functions of under-managers in charge and under-managers of mines.

Clauses 42, 43 and 44 respectively require the appointment of deputies, examiners and surveyors at mines.

Clause 45 enables regulations to be made requiring or authorising the appointment of other officials, engineers or technicians.

Clause 46 relates to the sending of notifications to the district inspector of coal mines in respect of appointments of officials at mines.

#### DIVISION 2.—*Immediate supervision of working of mines.*

Clause 47 is an interpretation provision.

Clause 48 prohibits the working of a mine on any day unless the manager of the mine, a deputy manager of the mine or an acting manager of the mine is in attendance and carrying out duties at the mine on that day. The period that a deputy manager or acting manager can act as manager is limited to 2 months unless the Chief Inspector of Coal Mines allows a longer period.

Clause 49 provides for lesser qualifications for acting managers where limited operations are being undertaken at a mine on any day.

Clause 50 contains provisions similar to clause 48 in relation to under-managers in charge of mines to apply in cases where those officials are required by the proposed Act to be appointed to a mine.

Clause 51 requires that, as from a date that is 5 years after the date on which the principal provisions of the proposed Act commence, a mine shall not be worked on any shift unless there is in charge of the mine a person qualified to be an under-manager. This provision shall not apply where limited operations are being undertaken at the mine.

DIVISION 3.—*Owner's instructions to mine officials and employees.*

Clause 52 allows a manager, other official or employee to require confirmation in writing of certain instructions given by an owner of a mine.

Clause 53 requires instructions to officials less senior than the manager of a mine or to employees of the mine to be given through the manager except in the case of emergency.

Clause 54 authorises the manager to decline to execute instructions in certain circumstances until they are confirmed in writing.

Clause 55 relates to the preservation of instructions that have been confirmed in writing.

DIVISION 4.—*Delegation of functions by the manager of a mine.*

Clause 56 authorises the manager of a mine to delegate his functions under the proposed Act to an official or other person employed at the mine. Regulations may be made restricting the persons to whom a manager's functions may be delegated. Subject to clause 57, a delegation has no effect unless it is countersigned by the delegate. On the delegation of a function it ceases to be the manager's function under the proposed Act and becomes the function of the delegate.

Clause 57 allows a delegate to refuse to countersign a delegation if he is of the opinion that it is unreasonable. If the manager wishes to confirm the delegation despite the delegate's objection he must refer the matter to a court for determination.

Clause 58 requires the sending of copies of delegations to the district inspector.

PART IV.—MINE INSPECTION AND SAFETY PROVISIONS.

DIVISION 1.—*Inspectors' powers of entry, inspection, etc.*

Clause 59 contains an inspector's general powers of entry, inspection, examination and inquiry in regard to mines.

Clause 60 contains an inspector's supplementary powers, including powers to question persons at mines, take samples, take or test machinery, etc., and require production of records.

Clause 61 requires an inspector to advise the manager of a mine when he obtains any information or becomes aware of any practice relevant to the continued safe operation of the mine.

Clause 62 provides that a person shall not wilfully fail to comply with a requirement imposed by an inspector and specifies other offences in relation to inspectors, etc.

DIVISION 2.—*Inspectors' powers where mine dangerous.*

Clause 63 empowers an inspector, where he is of the opinion that any matter, thing or practice at a mine is, or is likely shortly to become, dangerous, to serve a notice on the manager of the mine imposing prohibitions, restrictions or requirements or directing the evacuation or closure of the mine.

Clause 64 allows an inspector to authorise persons to enter a mine and carry out repair or other work notwithstanding the terms of a notice served as referred to in clause 63.

Clause 65 provides that a person may object to the Chief Inspector against a prohibition, restriction, requirement or direction referred to in clause 63 and the manager of a mine can appeal to a court against the Chief Inspector's decision.

Clause 66 provides that a prohibition, restriction, requirement or direction referred to in clause 63 shall (while it remains in force) be complied with notwithstanding the making of an objection or an appeal against it.

Clause 67 makes it an offence not to comply with a prohibition, restriction, requirement or direction referred to in clause 63.

Clause 68 authorises a court to order a person who has failed to comply with a prohibition, restriction, requirement or direction referred to in clause 63 so to comply, whether or not the person has been prosecuted.

#### *DIVISION 3.—Departmental officers' powers of entry.*

Clause 69 permits certain persons authorised by the Chief Inspector to enter mines for the purposes specified in the authority.

Clause 70 relates to obstruction, etc., of authorised persons.

#### *DIVISION 4.—Inspections on behalf of workmen.*

Clauses 71-76 provide for the election of persons as check inspectors at mines to enable inspections to be carried out on behalf of workmen at mines, set out their powers and functions and make certain other provisions in respect of them.

Clauses 77-79 provide for the election of district check inspectors. A district check inspector may act as one of the check inspectors at a mine.

Clauses 80-83 provide for the election of electrical check inspectors who have, in relation to electrical equipment, similar powers to check inspectors.

Clause 84 requires check inspectors, district check inspectors and electrical check inspectors to notify the manager of the mine and the district inspector of their election.

#### *DIVISION 5.—Notification of accidents and dangerous occurrences.*

Clause 85 is an interpretation provision.

Clauses 86-89 require the notification of accidents at mines, of deaths arising from accidents and of dangerous occurrences at mines.

Clauses 90-92 make it an offence to disturb a place where an accident has happened, require inspectors and check inspectors to visit and examine mines where accidents have happened as soon as practicable and require the keeping of records of accidents.

*DIVISION 6.—Investigation of accidents and dangerous occurrences.*

Clause 93 is an interpretation provision.

Clause 94 relates to the making of special reports by inspectors in the case of accidents or dangerous occurrences at mines.

Clause 95 enables the Minister to direct a court to hold a formal investigation of accidents or dangerous occurrences or of practices at mines relating to the safety or health of persons employed thereat.

Clause 96 sets out the powers of a court when holding a formal investigation.

Clauses 97–100 contain provisions relating to witnesses' expenses, reports to the Minister, costs of court investigations and offences in connection with court investigations.

*DIVISION 7.—Rules and schemes.*

Clauses 101–103 require the manager of a mine to make transport rules and support rules for the mine and to prepare schemes for the examination and testing of electrical and mechanical apparatus at the mine.

Clause 104 requires the manager of a mine to make rules or prepare schemes in respect of other matters which may be prescribed in the regulations.

Clause 105 requires copies of rules or schemes to be sent to the district inspector.

Clause 106 empowers the district inspector to require changes in rules or schemes.

Clauses 107 and 108 provide for appeals to the Chief Inspector and a court in respect of a requirement by a district inspector to make changes in rules or schemes.

Clause 109 requires a manager to comply with a notice to make changes in rules or schemes or with such a notice as varied on appeal, as the case may be.

Clause 110 makes provisions as to the date when rules or schemes take effect.

Clause 111 relates to the keeping and exhibition of rules and schemes.

Clause 112 requires officials and other persons employed at mines to comply with rules and schemes.

Clause 113 relates to the form of rules and schemes.

*DIVISION 8.—Training rules.*

Clause 114 requires a manager of a mine to ensure that employees undertake training in accordance with Joint Coal Board training schemes and with training rules to be made under the proposed Act.

Clause 115 authorises the Minister to direct a manager of a mine to make training rules additional to Joint Coal Board training schemes.

Clauses 116–118 provide for appeals to a court against a direction of the Minister under clause 115 and for the supply of copies of training schemes and rules to the district inspector.

Clause 119 provides for the issue of training certificates to persons who have completed training.

Clause 120 requires employees to comply with training rules.

*DIVISION 9.—Closing of shafts and outlets in abandoned mines.*

Clauses 121–123 contain provisions for or in relation to the closing, sealing-off, etc., of unused shafts or outlets in mines or prior to the abandonment of mines.

Clause 124 empowers the Minister to require the owner of land on which is situated a shaft or outlet of an abandoned mine to erect an enclosure, barrier, plug or seal at the shaft or outlet. If the owner does not comply, the Minister may cause the work to be done and recover the cost from the owner.

*DIVISION 10.—Control of emplacement areas.*

Clause 125 is an interpretation provision.

Clause 126 bars the establishment of emplacement areas after the commencement of the proposed Division except with the approval of the Minister and subject to such conditions as he may determine (emplacement areas are certain places where reject left after the treatment of coal is piled, heaped, dumped, etc.).

Clause 127 prohibits the discontinuance of use of an emplacement area without the Minister's approval.

Clause 128 relates to the discontinuance of use of certain emplacement areas in use at the commencement of the proposed Division.

Clause 129 contains provisions relating to the construction and use of emplacement areas.

Clause 130 provides for the making of tipping rules and applies certain provisions of proposed Division 7 to those rules.

Clause 131 provides for an appeal to a court against a decision or direction of the Minister under the proposed Division.

Clause 132 provides for objections to the Chief Inspector against a notice given by a district inspector under the proposed Division.

Clause 133 relates to the date of effect of decisions or notices.

**PART V.—OPERATION OF MINES.**

*DIVISION 1.—Notice of operations, etc.*

Clause 134 requires an owner of a mine to notify the district inspector of the commencement of operations, of the abandonment of the mine or a seam therein and of a number of other matters related to the working of the mine.



Clauses 135–137 relate to the drilling of boreholes for the purpose of proving coal, the examination and analysis of samples or cores by inspectors or Departmental officers and the backfilling or sealing of boreholes.

*DIVISION 2.—Methods or systems of working mines.*

Clause 138 requires the board and pillar system to be used in underground mines unless the Minister, on the recommendation of the Chief Inspector, otherwise approves. The clause also makes provision for prescribing the dimensions of pillars, roadways, etc.

Clause 139 contains provisions relating to the barriers to be left between mines and certain places within mines.

Clause 140 relates to the mining of seams which are liable to spontaneous combustion.

Clause 141 empowers the Chief Inspector to direct the establishment of methane drainage systems in mines (subject to appeal to a court).

*DIVISION 3.—Prospecting operations.*

Clause 142 is an interpretation provision.

Clause 143 requires the registered holder of a prospecting area (that is, land covered by an authorisation or concession under the Coal Mining Act, 1973, on which prospecting operations are carried on but not being land on which is situated a mine) to notify the district inspector of the commencement of operations.

Clause 144 provides for the appointment by the registered holder of a prospecting area of a supervisor of the area for the purpose of enforcing the observance of the proposed legislation.

Clause 145 authorises the making of regulations applying prescribed provisions of the proposed Act and regulations to prospecting areas.

**PART VI.—REGULATION OF TOURIST AND EDUCATIONAL ACTIVITIES IN MINES.**

Clause 146 is an interpretation provision.

Clauses 147–149 make provision for or in relation to the issue by the Minister of permits authorising the conducting of tourist activities in or about mines or the use of mines principally for educational purposes. The provisions apply to mines or abandoned mines which are not subject to coal leases under the Coal Mining Act, 1973.

**PART VII.—LEGAL PROVISIONS.**

*DIVISION 1.—Court of Coal Mines Regulation.*

Clause 150 provides for the appointment of a Judge of the District Court as a Court of Coal Mines Regulation or for the appointment of several such Judges as Courts of Coal Mines Regulation.

Clause 151 provides for the appointment of assessors to sit with a Court of Coal Mines Regulation.

Clause 152 sets out the jurisdiction of a Court of Coal Mines Regulation.

Clauses 153–155 make provisions with respect to the proceedings of a court, appeals from a court and the making of rules of court.

*DIVISION 2.—Offences and proceedings for offences.*

Clause 156 provides that the proceedings for offences against the proposed Act (other than under Division 2 of Part IV—failure to comply with prohibition, etc., imposed by an inspector in respect of a dangerous mine) shall be disposed of summarily before a court of petty sessions presided over by a stipendiary magistrate. Proceedings under Division 2 of Part IV shall be disposed of summarily before a Court of Coal Mines Regulation.

Clause 157 specifies the times for instituting prosecutions.

Clause 158 provides that certain offences are continuing offences.

Clause 159 provides that copies of certain instruments, if certified by a prescribed officer, shall be prima facie evidence of the terms of the instruments.

Clause 160 sets out certain offences against the proposed Act.

Clause 161 provides that, where, in relation to a mine, a person commits an offence against the proposed Act, the owner, superintendent, assistant superintendent, manager, deputy manager, under-manager in charge and under-managers of the mine also shall each be guilty of an offence against the Act. Proceedings under this provision can be instituted only with the consent of the Minister.

Clause 162 provides for the prosecution of directors and officers of corporations which have committed offences.

Clause 163 makes it an offence to aid, abet, etc., the commission of an offence against the proposed Act.

Clause 164 sets out certain defences available to persons prosecuted under the proposed Act, in particular, the defences available to owners, etc., prosecuted in respect of offences committed by other persons.

Clause 165 requires owners, etc., to advise the district inspector of the results of any prosecutions instituted by them.

Clause 166 prescribes the penalties under the proposed Act.

*PART VIII.—GENERAL.*

Clause 167 relates to the delegation of functions by the Minister or the Chief Inspector.

Clause 168 specifies a maximum number of hours that a person may, except in an emergency, remain on continuous duty at a mine and makes other provisions in relation thereto.

Clauses 169–171 contain provisions relating to service of notices, execution of instruments of appointment, keeping of records and provision of returns and other information.

Clause 172 relates to the continuation of appointments, etc., upon a change in owners, managers, etc.

Clause 173 relates to finance.

Clause 174 is the general regulation making power. This provision authorises the making of regulations in relation to a large number of specified matters generally related to the safety and health of persons employed in or about mines.

Schedule 1 contains the lists of mining officials and orders of seniority referred to in clauses 5 and 33.

Schedule 2 contains the provisions relating to the members and procedure of the Coal Mining Qualifications Board referred to in clause 18.

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Chapter 107-171 section 107-171 relating to service of process, execution of writs, and other instruments of enforcement, except of writs and process of return and other instruments.

Chapter 107-171 section 107-171 relating to enforcement of judgments, orders, decrees, and writs.

Chapter 107-171 relating to process.

Chapter 107-171 relating to return process. This provision addresses the return process in which a return is made to a writ or process generally, and the return is made to the writ or process applied in or about which.

Chapter 107-171 relating to writs and process of return to writs.

Chapter 107-171 relating to writs and process of return to writs.

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COAL MINES REGULATION BILL, 1982

No. , 1982.

A BILL FOR

An Act for regulating coal mines (and oil shale and kerosene shale mines) and certain related places.

[MR HILLS—11 March, 1982.]

See also Coal Mining (Amendment) Bill, 1982; Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Bill, 1982.

1982 NO. 111 OF BILL  
**Coal Mines Regulation.**

**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:—

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**PART I.**

**PRELIMINARY.**

**Short title.**

1. This Act may be cited as the "Coal Mines Regulation Act, 1982".

**Commencement.**

- 10 2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act 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.

**15 Arrangement.**

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—ADMINISTRATION—ss. 7–31.

DIVISION 1.—*Departmental inspectors*—ss. 7–12.

20 DIVISION 2.—*Coal Mining Qualifications Board*—ss. 13–18.

DIVISION 3.—*Certificates of competency*—ss. 19–24.

DIVISION 4.—*Suspension or cancellation of certificates of competency*—ss. 25–31.

PART III.—MANAGEMENT OF MINES—ss. 32–58.

25 DIVISION 1.—*Management generally*—ss. 32–46.

DIVISION 2.—*Immediate supervision of working of mines*—ss. 47–51.

DIVISION 3.—*Owner's instructions to mine officials and employees*—ss. 52–55.

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- DIVISION 4.—*Delegation of functions by the manager of a mine—*  
*ss. 56–58.*
- PART IV.—MINE INSPECTION AND SAFETY PROVISIONS—*ss. 59–133.*
- DIVISION 1.—*Inspectors' powers of entry, inspection, etc.—ss. 59–62.*
- 5 DIVISION 2.—*Inspectors' powers where mine dangerous—ss. 63–68.*
- DIVISION 3.—*Departmental officers' powers of entry—ss. 69, 70.*
- DIVISION 4.—*Inspections on behalf of workmen—ss. 71–84.*
- DIVISION 5.—*Notification of accidents and dangerous occurrences—*  
*ss. 85–92.*
- 10 DIVISION 6.—*Investigation of accidents and dangerous occurrences—*  
*ss. 93–100.*
- DIVISION 7.—*Rules and schemes—ss. 101–113.*
- DIVISION 8.—*Training rules—ss. 114–120.*
- DIVISION 9.—*Closing of shafts and outlets in abandoned mines—ss.*  
*121–124.*
- 15 DIVISION 10.—*Control of emplacement areas—ss. 125–133.*
- PART V.—OPERATION OF MINES—*ss. 134–145.*
- DIVISION 1.—*Notice of operations, etc.—ss. 134–137.*
- DIVISION 2.—*Methods or systems of working mines—ss. 138–141.*
- 20 DIVISION 3.—*Prospecting operations—ss. 142–145.*
- PART VI.—REGULATION OF TOURIST AND EDUCATIONAL ACTIVITIES  
 IN MINES—*ss. 146–149.*
- PART VII.—LEGAL PROVISIONS—*ss. 150–166.*
- DIVISION 1.—*Court of Coal Mines Regulation—ss. 150–155.*
- 25 DIVISION 2.—*Offences and proceedings for offences—ss. 156–166.*
- PART VIII.—GENERAL—*ss. 167–174.*
- SCHEDULE 1.—MINING OFFICIALS AND ORDER OF SENIORITY OF  
 MINING OFFICIALS.
- SCHEDULE 2.—PROVISIONS RELATING TO MEMBERS AND PROCEDURE  
 OF BOARD.
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*Coal Mines Regulation.***Act applies only to coal mines except where otherwise expressly enacted.**

4. Except in so far as is in this Act expressly enacted, this Act applies only to coal mines.

**Interpretation.**

5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“approved” means approved by the Chief Inspector;

“assistant superintendent”, in relation to a mine, means a person appointed under section 35 to be an assistant superintendent of the mine;

“Board” means the Coal Mining Qualifications Board constituted under this Act;

“certificate of competency” means a certificate granted under section 19;

“check inspector” means a person elected under section 71 in respect of a mine;

“Chief Inspector” means the person appointed as chief inspector of coal mines under section 7;

“coal” includes oil shale and kerosene shale, but does not include peat;

“colliery holding” has the meaning ascribed thereto in the Coal Mining Act, 1973;

“court” means a Court of Coal Mines Regulation constituted under section 150;

“Department” means the Department of Industrial Relations;

“Deputy Chief Inspector” means the person appointed as deputy chief inspector of coal mines under section 7;

“direction” includes any instruction, order or requirement authorised by this Act to be given or made by the Minister or an inspector;

“district check inspector”, in relation to a mine, means the person elected under section 77 as the district check inspector for the mine;



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- “district inspector”, in relation to a mine, means the inspector of coal mines appointed for the mine under section 7 (2);
- “drift” means a roadway driven in stone or alluvial matter, but does not include a shaft;
- 5 “electrical check inspector”, in relation to a mine, means the person elected under section 80 as the electrical check inspector for the mine;
- “flammable gas” means methane, carbon monoxide or hydrogen;
- “functions” includes powers, authorities and duties;
- 10 “inspector” means the Chief Inspector, the Deputy Chief Inspector, a senior inspector or a person appointed as an inspector of coal mines under section 7;
- “manager”, in relation to a mine, means the person appointed or nominated under section 36 as the manager of the mine;
- 15 “methane” includes ethane, propane and similar hydrocarbon gases;
- “mine”, when used as a noun, includes (subject to subsections (3)-(16)) any place, land, building, structure, pit, shaft, drive, level, drift, excavation and work on or in which, or whereby, any operation for or in connection with mining is carried on and any pipe, conveyor or ropeway used for the conveyance of coal or stone;
- 20 “mine”, when used as a verb, means to disturb, remove, cart, carry, crush or otherwise deal with coal or stone for the purpose of obtaining coal but does not include the act of exploring for coal by drilling from the surface;
- 25 “mining official” means—
- (a) in relation to an underground mine—a person holding at the mine any position specified in Part A of Schedule 1; and
- 30 (b) in relation to an open cut mine—a person holding at the mine any position specified in Part B of Schedule 1;
- “official”, except in the expression “mining official”, means—
- (a) in relation to an underground mine—a person holding at the mine any position specified in Part A of Schedule 1 or any other position prescribed for the purposes of this paragraph; and
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(b) in relation to an open cut mine—a person holding at the mine any position specified in Part B of Schedule 1 or any other position prescribed for the purposes of this paragraph;

6 “open cut mine” means a mine in which persons are not employed underground when the mine is being worked;

“outlet”, in relation to a mine, means a means of ingress or egress for persons, materials, coal or stone;

10 “owner”, in relation to a mine or a part of a mine, as the case may require, means any person who is the immediate proprietor, the lessee or the occupier of the mine or the part of the mine, and includes—

15 (a) where the mine or the part of the mine is being worked by a person who is an official liquidator, receiver, manager or other person authorised by law (other than a provision of this Act) to carry on the business of working the mine—that person;

20 (b) where the mine or the part of the mine belongs to, or is held in trust for, the Crown, a department of the Government or a statutory authority—the Crown, the department or the statutory authority, as the case may be; and

(c) where the mine or the part of the mine is being worked by a contractor—the contractor,

25 but does not include a person who merely receives a royalty, rent or fine from the mine or the part of the mine or is merely holding the property on or in which the mine or the part of the mine is situated subject to any lease, grant or licence to, or contract with, another person for the working of the mine or the part of the mine;

“regulation” means a regulation made under this Act;

30 “roadway” means any passageway in a mine formed by the removal of coal or stone and through which is passed or is proposed to be passed coal, stone, persons, materials or ventilation;

“rules” means rules made under this Act or the regulations, other than rules of court;

35 “rules of court” means rules made under section 155;

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- “senior inspector” means a person appointed as a senior inspector of coal mines under section 7 (1) (c);
- “scheme” means a scheme prepared under this Act or the regulations;
- “shaft” includes a staple shaft;
- 5 “stone” includes rock, clay, shale, soil and sand, but does not include coal;
- “superintendent”, in relation to a mine, means a person appointed under section 34 to be a superintendent of the mine;
- “support rules” means rules made under section 102;
- 10 “surveyor”, in relation to a mine, means a person appointed under section 44 as the surveyor for the mine;
- “transport rules” means rules made under section 101;
- “underground mine” means a mine in which persons are employed underground when the mine is being worked;
- 15 “Under Secretary” means the Under Secretary, Department of Industrial Relations;
- “vehicle” includes any mechanically driven machine capable of moving under its own power.
- (2) A reference in this Act to the exercise of a function includes, 20 where the function is a duty, a reference to the performance of the duty.
- (3) In subsections (4) and (7), “place” includes land, building, structure, pit, shaft, drive, level, drift and excavation.
- (4) The Minister may, by notice published in the Gazette, declare that—
- 25 (a) any place, any part of any place or any place belonging to a class of place specified in the notice shall, for the purposes of this Act—
- (i) be deemed to be part of a mine; or
  - (ii) be deemed not to be part of a mine; or

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(b) any pipe, conveyor or ropeway, any part of a pipe, conveyor or ropeway or any pipe, conveyor or ropeway belonging to a class of pipe, conveyor or ropeway specified in the notice shall, for the purposes of this Act—

- 5
- (i) be deemed to be part of a mine; or
  - (ii) be deemed not to be part of a mine.

(5) A notice under subsection (4) may apply to all mines, to a particular mine or particular mines or to all mines other than a particular mine or particular mines.

10 (6) A notice under subsection (4) has effect according to its tenor.

(7) Without limiting the generality of subsections (4)–(6), the Minister may, under subsection (4), declare that a place, pipe, conveyor or ropeway, or any part thereof, used by or in connection with 2 or more mines shall be deemed to be a part of one of those mines.

15 (8) For the purposes of this Act, any building, structure, pit, shaft, drive, level, drift, excavation or work—

- (a) which is in the course of construction and which is intended to be part of a mine;
- (b) which is a part of a mine and which is in the course of being abandoned; or
- (c) which is a part of a mine the operations at or in which are in the course of being discontinued,

20 shall be deemed to be part of a mine.

(9) For the purposes of this Act, a mine shall be deemed to be worked notwithstanding that the only work being carried out at the mine is in connection with—

- (a) sinking or raising a shaft or driving an outlet;
  - (b) abandoning or discontinuing operations at the mine;
  - (c) removing or replacing overburden; or
  - (d) rehabilitating land used as an open cut mine.
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(10) For the purposes of this Act, a mine shall be deemed to be worked until such time as a notice that the mine has been abandoned or operations at the mine have been discontinued has been given under section 134.

5 (11) Where 2 or more parts of a mine can be worked separately, the Chief Inspector may, on application by the owner of the mine, declare by instrument in writing that the several parts of the mine shall be deemed to be separate mines for the purposes of this Act.

(12) Where 2 or more mines can be worked as one mine, the Chief  
10 Inspector may, on application by the owner or owners of the mines, declare by instrument in writing that the mines shall be deemed to be one mine for the purposes of this Act.

(13) In making a declaration under subsection (11) or (12) the  
15 Chief Inspector shall have regard to the effect that the declaration may have on the safety of persons employed in the mines.

(14) A declaration made under subsection (11) or (12) may be made subject to conditions.

(15) The Chief Inspector may at any time revoke a declaration made under subsection (11) or (12).

20 (16) A declaration under subsection (11) or (12) has effect according to its tenor.

(17) Any power conferred by this Act or the regulations on the Minister or an inspector to—

25 (a) grant or give an exemption, consent, approval, authority or direction;

(b) impose any requirement, prohibition or restriction; or

(c) make a determination,

includes a power, exercisable in the like manner and subject to the like conditions, if any, as the power so conferred, to vary or revoke the exemption,  
30 consent, approval, authority, direction, requirement, prohibition, restriction or determination.

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(18) An exemption, consent, approval or authority granted or given under this Act or the regulations by the Minister or an inspector may, subject to any express provision of this Act or the regulations—

- (a) be without limit as to its period of operation; or  
5 (b) be limited so as to expire on a specified date unless renewed,  
and may be absolute or conditional.

(19) Schedule 1 may be amended, added to or substituted (wholly or in part) by regulation.

**Act binds Crown.**

- 10 6. This Act binds the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

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**PART II.****ADMINISTRATION.**

- 15 DIVISION 1.—*Departmental inspectors.*

**Appointment of inspectors.**

7. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1979, appoint for the purposes of this Act—

- (a) a chief inspector of coal mines;  
20 (b) a deputy chief inspector of coal mines;  
(c) senior inspectors of coal mines;  
(d) inspectors of coal mines;  
(e) a senior inspector of electrical engineering;  
(f) inspectors of electrical engineering;

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- (g) a senior inspector of mechanical engineering; and
- (h) inspectors of mechanical engineering.

(2) The Chief Inspector or a person authorised by him may appoint an inspector of coal mines as the district inspector for a mine.

### 5 Qualifications of inspectors.

8. (1) A person shall not be appointed under section 7 (1) (a)–(d), inclusive, unless—

- (a) he holds a certificate of competency to be a manager of a mine;
- 10 (b) he has had not less than 3 years' experience as a manager of an underground mine in Australia; and
- (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

(2) A person shall not be appointed under section 7 (1) (e) or (f) unless—

- 15 (a) he holds a certificate of competency to be a mine electrical engineer;
- (b) he has had not less than 2 years' experience as a mine electrical engineer at an underground mine in Australia; and
- 20 (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

(3) Subject to subsection (4), a person shall not be appointed under section 7 (1) (g) or (h) unless—

- (a) he holds a certificate of competency to be a mine mechanical engineer;
- 25 (b) he has had not less than 2 years' experience as a mine mechanical engineer at an underground mine in Australia; and
- (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

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(4) Notwithstanding the provisions of subsection (3), during such period after the day appointed and notified under section 2 (2) as may be prescribed a person may be appointed under section 7 (1) (g) or (h) if—

- 5 (a) he holds a degree or diploma in mechanical engineering of a kind approved by the Minister for the purposes of this paragraph; and
- (b) he has had, in the opinion of the Minister, sufficient mining experience to warrant his appointment.

**Disclosure of financial interests by inspectors.**

9. (1) A person appointed under section 7 shall advise the Under  
10 Secretary of any financial interest the person may hold, either directly or indirectly, in a mine.

(2) An advice referred to in subsection (1) shall be given—

- 15 (a) where the interest is held at the time of the appointment—within 28 days of the appointment or within such further time as the Under Secretary may determine; or
- (b) where the interest is acquired after the appointment—within 28 days of the acquisition of the interest or within such further time as the Under Secretary may determine.

(3) The Under Secretary may direct a person appointed under section  
20 7 to dispose of any financial interest held, either directly or indirectly, in a mine within such period as is specified by the Under Secretary.

(4) A person who is given a direction under subsection (3) shall comply with that direction.

**Functions of inspectors.**

25 10. (1) The Chief Inspector has the functions—

- (a) imposed on him by or under this Act; or
- (b) assigned to him by the Minister in connection with the administration of this Act.



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(2) The Deputy Chief Inspector has—

- (a) such of the functions of the Chief Inspector as are delegated to him under this Act to the extent that those functions are delegated; and
- (b) the functions assigned to him by the Minister in connection with the administration of this Act.

(3) The senior inspectors appointed under section 7 (1) (c) and the inspectors appointed under section 7 (1) (d) have the functions imposed on them by or under this Act.

(4) The Senior Inspector of Electrical Engineering and each inspector of electrical engineering appointed under section 7 (1) (f) have—

- (a) the functions imposed on them by or under this Act; and
- (b) the functions imposed on inspectors under sections 59 and 60 to the extent that those functions relate to the use, construction, installation, examination, repair, maintenance, alteration, adjustment or testing of electrical apparatus or electrical cables.

(5) The Senior Inspector of Mechanical Engineering and each inspector of mechanical engineering appointed under section 7 (1) (h) have—

- (a) the functions imposed on them by or under this Act; and
- (b) the functions imposed on inspectors of coal mines under sections 59 and 60 to the extent that those functions relate to the use, construction, installation, examination, repair, maintenance, alteration, adjustment or testing of mechanical equipment or the construction, erection or maintenance of buildings or structures.

**25 Absence of Chief Inspector and Deputy Chief Inspector.**

11. Where both the Chief Inspector and the Deputy Chief Inspector are absent from duty, or on duty but outside the State, the Minister may appoint an inspector to exercise the functions of the Chief Inspector.

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**Annual reports by inspectors.**

12. (1) Each inspector appointed under section 7 (1) (c)–(h) shall, at such time or within such period as the Chief Inspector may direct, make an annual report of his official activities during the preceding year to the Chief Inspector.

(2) The reports referred to in subsection (1), as summarised by the Chief Inspector, shall be furnished by the Chief Inspector to the Minister.

**DIVISION 2.—Coal Mining Qualifications Board.****Constitution of Board.**

10 13. (1) There is hereby constituted a board to be known as the Coal Mining Qualifications Board.

(2) The Board shall consist of 10 members, of whom—

- (a) one shall be the Chief Inspector;
- (b) one shall be the Deputy Chief Inspector;
- 15 (c) one shall be a person who holds a certificate of competency as a manager and is either an owner, a superintendent or an assistant superintendent of a mine;
- (d) one shall be a manager of a mine;
- (e) one shall be a manager of an open cut mine;
- 20 (f) one shall be a mine electrical engineer, mine mechanical engineer or surveyor for a mine;
- (g) one shall be a person employed as a deputy in a mine;
- (h) one shall be a person employed in a mine, other than a person referred to in paragraphs (c)–(g);
- 25 (i) one shall be a person who, in the opinion of the Minister, represents a school of mining engineering in a university; and

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- (j) one shall be a person who belongs to a technical education authority and who, in the opinion of the Minister, specialises in and is skilled in techniques of assessment and determination of qualifications.
- 5       (3) The members referred to in subsection (2), other than the ex-officio members, shall be appointed by the Minister by instrument in writing.
- (4) A person of or over the age of 65 years shall not be appointed as a member.
- 10       (5) The Chief Inspector or, if the Minister so directs, the Deputy Chief Inspector shall be the chairman of the Board.

**Functions of Board.**

14. The Board shall—
- 15       (a) determine the qualifications necessary for the grant of certificates of competency;
- (b) determine whether applicants for certificates of competency are eligible to be granted those certificates;
- (c) appoint examiners and conduct examinations for certificates of competency; and
- 20       (d) carry out such research or investigations, either generally or in any particular case, in relation to certificates of competency and qualifications for the grant thereof as the Minister may require and make to the Minister reports or recommendations, as the case may require, in relation thereto.

**25 Examiners.**

15. (1) Examiners appointed by the Board shall be paid such remuneration (including travelling and subsistence allowances) as the Board may, with the approval of the Minister, determine.

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(2) An officer or temporary employee of the Public Service appointed as an examiner under this Act may retain for his own use remuneration paid to him under subsection (1).

**Expenses of Board.**

5 16. The expenses of the Board (including any remuneration payable to examiners appointed by them) shall be defrayed out of money provided by Parliament.

**Annual report.**

17. The Board shall, at such time or within such period as the Minister  
10 may direct, make an annual report of its proceedings during the preceding year to the Minister.

**Provisions relating to members and procedure of Board.**

18. (1) Schedule 2 has effect.

(2) Schedule 2 may be amended, added to or substituted (wholly or  
15 in part) by regulation.

**DIVISION 3.—Certificates of competency.****Certificates that may be granted.**

19. (1) The Minister may, on the recommendation of the Board, grant certificates of competency to be—

- 20 (a) a manager of a mine;  
(b) an under-manager of a mine;  
(c) a deputy;  
(d) a mine electrical engineer;  
(e) a mine mechanical engineer;

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- (f) a mine surveyor;
- (g) a manager of an open cut mine;
- (h) an examiner of an open cut mine; or
- (i) a mine electrical engineer of an open cut mine.

5           (2) If the Board so recommends, the Minister may grant a certificate of competency subject to terms or conditions.

**Examinations and qualifications for certificates of competency.**

20.   (1) The Board shall hold examinations for certificates of competency at such times and places as the Board may determine.

10           (2) The Board may give general instructions to examiners appointed by them with respect to the conduct and content of examinations.

          (3) In determining whether or not to recommend the granting of a certificate of competency the Board shall have regard to such knowledge as is necessary for the practical working of mines.

15           (4) Examinations conducted by the Board for certificates of competency to be a deputy or an examiner of an open cut mine shall be suitable for practical working miners.

          (5) The Board may accept, subject to any conditions it may impose, a certificate of competency granted by an authority outside New South Wales  
20 as being sufficient qualification for the grant of a certificate of competency under this Act.

          (6) The Board may refuse to recommend the granting of a certificate of competency to a person on the grounds that a certificate of competency held by that person has been cancelled or suspended.

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**Holders of certain certificates may be appointed to other positions.**

21. (1) A person who holds a certificate of competency to be a manager of a mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold—

- 5 (a) a certificate of competency to be an under-manager of a mine;  
(b) a certificate of competency to be a mine deputy;  
(c) a certificate of competency to be a manager of an open cut mine;  
or  
(d) a certificate of competency to be an examiner of an open cut mine.

10 (2) A person who holds a certificate of competency to be an under-manager of a mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold a certificate of competency to be a mine deputy.

15 (3) A person who holds a certificate of competency to be a manager of an open cut mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold a certificate of competency to be an examiner of an open cut mine.

20 (4) A person who holds a certificate of competency to be a mine electrical engineer may be appointed to a position under a provision of the regulations notwithstanding that the provision requires the appointee to hold a certificate of competency to be a mine electrical engineer of an open cut mine.

**Register.**

25 22. (1) The Chief Inspector shall keep a register of the holders of certificates of competency.

(2) The register referred to in subsection (1) shall be received in every court as evidence that a certificate of competency has or has not been granted to a person and of the class of a certificate of competency granted to a person.

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**Rules.**

**23. (1)** The Board, with the consent of the Minister, may make rules, not inconsistent with this Act, with respect to—

- 5 (a) the qualifications to be held by a person in order for the grant to him of a certificate of competency to be recommended;
- (b) the experience that a person applying for a certificate of competency must have in order for the grant to him of a certificate of competency to be recommended;
- 10 (c) the age which a person is to have attained before he may be granted a certificate of competency;
- (d) the course of instruction to be undertaken by an applicant for a certificate of competency;
- (e) subject to section 20, the nature and type of examinations to be undertaken by applicants for certificates of competency and the manner of their conduct;
- 15 (f) the fees payable by applicants for certificates of competency and candidates for examinations conducted by the Board;
- (g) the circumstances in which the Board may grant to an applicant for a certificate of competency exemption from complying with the rules in respect of the undertaking of examinations, the holding of qualifications, the possession of experience and the attendance of courses of instruction;
- 20 (h) the matters to be included in an application for a certificate of competency; and
- 25 (i) such other matters as may be prescribed.

**(2)** A rule made under subsection (1) shall—

- (a) be published in the Gazette;
- (b) take effect on and from the date of publication or a later date specified in the rule; and
- 30 (c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

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(3) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a rule has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

5 (4) For the purposes of subsections (2) and (3), sitting days shall be counted, whether or not they occur during the same session.

(5) Judicial notice shall be taken—

(a) of a rule made or purporting to have been made under this section and published in the Gazette; and

10 (b) of the date of its publication.

(6) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule have been complied with and performed.

**Regulations.**

15 24. The regulations may include provisions, not inconsistent with this Act, with respect to—

(a) the issue and replacement of certificates of competency; and

(b) the keeping of the register of holders of certificates of competency.

**DIVISION 4.—Suspension or cancellation of certificates of competency.****20 Notice to show cause.**

25 25. Where a person holding a certificate of competency has been convicted of an offence against this Act or, in the opinion of the Chief Inspector—

(a) has, by reason of his incompetence or negligence, caused injury to any person or property; or

(b) is, by reason of his incompetence or negligence, reasonably likely to cause injury to any person or property,



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and, in the opinion of the Chief Inspector, is unfit to hold the certificate, the Chief Inspector may serve on that person a notice—

- (c) stating that he is of that opinion;
- (d) giving the reasons why he is of that opinion; and
- 5 (e) calling upon that person to show cause why his certificate should not be suspended or cancelled.

**Procedure following service of a notice to show cause.**

10 **26. (1)** A person served with a notice under section 25 may, within such period as may be prescribed commencing from the date of service of the notice, advise the Chief Inspector in writing whether or not it is his intention to show cause why his certificate of competency should not be suspended or cancelled.

15 **(2)** Where a person advises the Chief Inspector, in accordance with subsection (1), that it is not his intention to show cause why his certificate of competency should not be suspended or cancelled, the Minister shall—

- (a) suspend the certificate for such period as is specified by him;
- (b) cancel the certificate; or
- 20 (c) direct that, for the purposes of subsection (3), the person be regarded as having failed to give an advice in accordance with subsection (1).

**(3)** Where a person—

- (a) advises the Chief Inspector, in accordance with subsection (1), that it is his intention to show cause why his certificate of competency should not be suspended or cancelled;
- 25 (b) fails to advise the Chief Inspector, in accordance with subsection (1), whether or not it is his intention to show cause why his certificate of competency should not be suspended or cancelled; or
- (c) advises the Chief Inspector, in accordance with subsection (1), that it is not his intention to show cause why his certificate of competency should not be suspended or cancelled and the Minister
- 30 has given a direction in respect of him under subsection (2) (c),

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the Chief Inspector shall, if the Minister so approves, file with a court within such period as may be prescribed commencing from—

- 5 (d) where an advice has been given by the person as referred to in paragraph (a)—the date of receipt of that advice by the Chief Inspector; or
- (e) where the person has failed to give an advice as referred to in paragraph (b) or the Minister has given a direction in respect of him under subsection (2) (c)—the day after the date of expiration of the period during which the advice could have been given,
- 10 a statement in relation to the certificate of competency in such form and containing such particulars as may be specified in the rules of court.

**Hearing and determination by a court.**

27. (1) Following the filing with it of a statement under section 26 (3) in relation to a certificate of competency, a court shall—

- 15 (a) hear and determine the matter; and
- (b) make a recommendation to the Minister as to whether or not the certificate of competency should be suspended or cancelled.

(2) Where a court makes a recommendation that a certificate of competency be suspended, the court shall specify the period of suspension 20 recommended by it.

(3) Where a court makes a recommendation that a certificate of competency held by a person be suspended or cancelled, it may recommend that a certificate of competency of a class different from the class of the certificate of competency, the suspension or cancellation of which is recom- 25 mended, be granted to the person subject to such conditions as it may specify.

**Suspension of certificates pending hearing.**

28. (1) Where—

- (a) the Chief Inspector has served a notice to show cause on a person under section 25; and

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(b) the Chief Inspector is of the opinion that, for reasons of safety—

(i) the person's certificate of competency should be suspended;  
or

(ii) the exercise of the rights conferred on the person by his  
5 certificate of competency should be restricted,

pending a hearing of the matter by a court,

the Chief Inspector may apply to a court for an order to suspend the certificate or restrict the exercise of the rights conferred by it, as the case may require, pending a hearing of the matter by a court.

10 (2) An application under subsection (1) shall be in such form and contain such particulars as may be specified in the rules of court.

(3) If a court so determines, having regard to the circumstances, it may hear and determine an application under subsection (1) without requiring the holder of the certificate of competency to be present and without  
15 any evidence being tendered on his behalf.

(4) If a court is satisfied that, for reasons of safety, a certificate of competency in respect of which an application has been made under subsection (1) should be suspended or the exercise of the rights conferred by it should be restricted, it may make an order to that effect subject to such  
20 conditions as it may specify.

(5) An order made under subsection (4) shall have effect according to its tenor.

**Surrender of certificates.**

25 29. A person whose certificate of competency is suspended or cancelled shall surrender his certificate to the Minister on being advised by the Minister of the suspension or cancellation.

**Restoration of certificates.**

30 30. (1) A court may, on the application of a person whose certificate of competency has been suspended or cancelled, recommend to the Minister that—

(a) the certificate of competency which has been suspended or cancelled be restored; or

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(b) a certificate of competency of a class different from the class of the certificate which has been suspended or cancelled be granted to that person.

(2) An application under subsection (1) shall be in such form and contain such particulars as may be specified in the rules of court.

**Minister to give effect to court's recommendations.**

31. The Minister shall give effect to any recommendations made by a court under this Division.

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**PART III.**

10

**MANAGEMENT OF MINES.****DIVISION 1.—*Management generally.*****Duties of owners.**

32. The owner of a mine shall make such provision as is, and take such steps as are, necessary to ensure that—

- 15 (a) the mine is so planned, laid out and equipped as to enable it to be managed and worked in accordance with this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- (b) the mine is so managed and worked.

**20 Officials, order of seniority of mining officials and appointments.**

33. (1) A person shall not be appointed to a position at or in respect of a mine if that person's functions will involve the issuing of instructions with respect to the management or working of the mine, which instructions relate, either directly or indirectly, to the safety or health of persons employed at the mine, unless that person is appointed as a mining official in accordance with this Part.

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(2) Subsection (1) does not apply to the nomination by the owner of a mine of himself as manager of the mine.

(3) Each person holding a position as a mining official at a mine shall, in relation to all other mining officials at the mine, have seniority 5 equivalent to—

(a) in the case of an underground mine—the seniority indicated for that position in the order of seniority specified in Part A of Schedule 1; or

10 (b) in the case of an open cut mine—the seniority indicated for that position in the order of seniority specified in Part B of Schedule 1.

(4) Notwithstanding that a mine or any part thereof is worked, or any part of the operations in a mine is carried on, by a contractor, the owner of the mine shall employ and pay the wages of all officials and shot firers at the mine unless the Chief Inspector otherwise approves.

15 (5) Except with the approval of the Chief Inspector, a contractor working, or carrying out operations in, a mine or any part thereof or any person employed by him, shall not be appointed to be an official of the mine.

### **Superintendents.**

20 34. (1) The owner of a mine may appoint a person as a superintendent of the mine.

(2) The owner of a mine shall not appoint a person as a superintendent of the mine unless that person is the holder of—

(a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or

25 (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

(3) Where the owner of a mine appoints a person as a superintendent of the mine and that person is to exercise all or some of the functions of the owner under this Act, the owner shall, as soon as practicable (or, if 30 a period is prescribed for the purposes of this subsection, within that period), give to that person written instructions specifying the functions of the owner under this Act which are to be exercised by that person.

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(4) Where the owner of a mine appoints a person as a superintendent of the mine, he shall, as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period), advise the district inspector and the manager of the mine in writing of—

- 5 (a) the full name, address and title of the person so appointed;  
(b) the date of his appointment; and  
(c) the functions to be performed by him.

(5) The owner of a mine shall, within 14 days after a change in the functions of a superintendent, give to the district inspector a notice stating 10 particulars of the change.

(6) No person, other than an owner of a mine, shall appoint a person as a superintendent of a mine.

**Appointment of assistant superintendents.**

35. (1) The owner or the superintendent of a mine may appoint as 15 assistant superintendents of the mine such number of persons as is necessary to assist the superintendent of the mine to exercise his functions under this Act.

(2) The owner or the superintendent of a mine shall not appoint a person as an assistant superintendent of the mine unless that person is the 20 holder of—

- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or  
(b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

25 (3) Where the owner or the superintendent of a mine appoints a person as an assistant superintendent of the mine, the owner or the superintendent, as the case may be, shall, as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period), advise the district inspector and the manager of the mine in writing of—

- 30 (a) the full name, address and title of the person so appointed;

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- (b) the date of his appointment; and
- (c) the functions to be performed by him.

(4) The owner or the superintendent of a mine who has appointed an assistant superintendent of the mine shall, within 14 days after a change in the functions of the assistant superintendent, give to the district inspector a notice stating particulars of the change.

(5) No person, other than an owner or a superintendent of a mine, shall appoint a person as an assistant superintendent of a mine.

**Managers.**

10 **36. (1)** The owner of a mine shall not work the mine at any time when—

- (a) there is no person appointed or nominated as the manager of the mine under this section; or
- 15 (b) except as provided by section 48, there is more than one person appointed or nominated as the manager of the mine.

(2) The owner or superintendent of a mine may appoint a person as the manager of the mine or the owner of a mine, being an individual, may nominate himself as the manager of the mine.

(3) No person, other than an owner or a superintendent of a mine, 20 shall appoint a person as the manager of a mine.

(4) The owner or the superintendent of a mine shall not appoint a person as the manager of the mine unless that person, or the owner of a mine (being an individual) shall not nominate himself as the manager of the mine unless he, is the holder of—

- 25 (a) in the case of an underground mine at which the total number of persons usually employed below ground during a period of 24 hours when the mine is being worked is more than 15—a certificate of competency to be a manager of a mine;

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(b) in the case of an underground mine at which the total number of persons usually employed below ground during a period of 24 hours when the mine is being worked is not more than 15—

(i) a certificate of competency to be a manager of a mine; or

5 (ii) a certificate of competency to be an under-manager of a mine and a permit, issued to him by the Chief Inspector under subsection (5) and currently in force, to be the manager of the mine; or

10 (c) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

(5) The Chief Inspector may issue to the holder of a certificate of competency to be an under-manager of a mine a permit to be the manager of a mine, specified in that permit, at which not more than 15 persons are usually employed below ground during a period of 24 hours when the mine 15 is being worked.

(6) A permit issued under subsection (5) shall be in force for a period of 12 months, commencing from the date of issue (or, where a later date is specified in the permit, from that date), but may be renewed by the Chief Inspector on the recommendation of the district inspector for further 20 periods, each of 12 months, commencing from the day after a date of expiration of the permit.

(7) The Chief Inspector may, by notice in writing given to the holder of a permit issued under subsection (5), cancel that permit.

(8) Copies of a notice given under subsection (7) to the holder of a 25 permit to be the manager of a mine shall be sent by the Chief Inspector to the owner or the superintendent of the mine.

(9) A person shall not be the manager of more than one mine at the one time except with the approval of the Chief Inspector.

(10) The Chief Inspector shall not, under subsection (9), approve 30 of a person being the manager of more than 2 mines at the one time.



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**Functions of managers.**

**37. (1)** Subject to any instructions given to him or to another person employed at the mine by—

- (a) the owner of the mine;
- 5 (b) a superintendent of the mine; or
- (c) an assistant superintendent of the mine,  
(excluding instructions which are required under section 52 or 54 to be confirmed in writing and which have not been so confirmed), the manager of a mine—
- 10 (d) shall have full charge and control of—
  - (i) all persons employed at the mine; and
  - (ii) all operations at the mine;
- (e) shall enforce the observance, by all persons employed at the mine,  
15 of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- (f) shall have such other functions as may be conferred or imposed  
20 on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

(2) Without limiting the generality of subsection (1), the manager of a mine shall—

- (a) appoint or employ such number of officials, engineers, technicians and other persons as is necessary to—
  - 25 (i) operate the mine in conformity with; and
  - (ii) carry out any inspections at the mine required by, this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder;
- 30 (b) ensure that the machinery, apparatus and equipment in use at the mine is maintained in a safe working condition;

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(c) if the mine is an underground mine—

- (i) ensure that the height and width of roadways in the mine are at all times not less than those specified in the transport rules made in respect of that mine; and
- 5       (ii) ensure that the roof and sides of working places and roadways in the mine (other than roadways located in a part of the mine which is fenced off in pursuance of the regulations) are adequately supported where necessary for safety;
- 10       (d) ensure that officials at the mine are in possession of such information and plans as are necessary to enable those officials to ensure that all operations at the mine for which they are responsible are carried out in a safe manner;
- 15       (e) subject to subsection (3) (a), ensure that the persons appointed or employed as required under paragraph (a) understand the nature and scope of any functions which they are required to exercise under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder;
- 20       (f) display in such manner and for such periods as may be prescribed copies of all exemptions from complying with any provisions of, or made under, this Act which have been granted in respect of the mine;
- 25       (g) take steps to ensure that any matter which is of an abnormal or unusual nature and which could affect the safety of persons in the mine is promptly brought to his attention;
- 30       (h) take such steps as may be necessary to ensure that at all times he is in possession of all available information relevant to the behaviour of strata surrounding the mine and its relationship to the safe working of the mine and all available information regarding disused excavations or workings in the vicinity of the mine; and
- 35       (i) subject to subsection (3) (b), read each report, record or other item of information which is required to be made or recorded under this Act, the regulations, the rules and any schemes and

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any directions, or conditions of exemptions or approvals, given thereunder immediately upon his becoming aware of the existence of the report, record or other item.

5 with—

- 10 (a) subsection (2) (e) in respect of a person appointed or employed as required under subsection (2) (a) if that person has acknowledged in writing that he understands the nature and scope of any functions which he is required to exercise under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- (b) subsection (2) (i) in respect of a report, record or other item of information referred to in that paragraph if—
  - 15 (i) he ensures that it is read by a person appointed by him in writing (being a person having such qualifications as may be prescribed for the purposes of this subparagraph) immediately upon that person's becoming aware of the existence of the report, record or other item; and
  - 20 (ii) he has taken steps to ensure that any matter disclosed in the report, record or other item which is of an abnormal or unusual nature and which could affect the safety of persons in the mine is promptly brought to his attention.

**Deputy managers.**

25 **38. (1)** The owner, the superintendent or the manager of a mine may appoint a person as a deputy manager of the mine or appoint a number of persons as deputy managers of the mine.

**(2)** The owner, the superintendent or the manager of a mine shall not appoint a person as a deputy manager of the mine unless that person is the holder of—

- 30 (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or
- (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

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(3) No person, other than an owner, a superintendent or a manager of a mine, shall appoint a person as a deputy manager of a mine.

**Under-managers in charge.**

39. (1) The owner of an underground mine shall not work the mine—

- 5 (a) at any time when the manager of the mine is also the manager of another mine in pursuance of an approval given under section 36 (9)—unless there is a person appointed under this section as an under-manager in charge of the whole of the mine or there is a number of persons appointed under this section as under-  
10 managers in charge in respect of the several underground parts of the mine; or
- (b) where the Chief Inspector has, by reason of the size or condition of the mine, directed the owner not to work the mine unless a  
15 person is appointed under this section as an under-manager in charge of the whole of the mine or such number of persons as is specified in the direction is appointed under this section as under-managers in charge of the several underground parts of the mine—  
unless there is a person, or there are persons, appointed in  
compliance with the direction.

20 (2) The owner, the superintendent or the manager of an underground mine may appoint a person as an under-manager in charge of the whole of the mine or appoint a number of persons as under-managers in charge of the several underground parts of the mine.

25 (3) The owner, the superintendent or the manager of an underground mine shall not appoint a person as an under-manager in charge of the whole of the mine or of an underground part of the mine unless that person is the holder of a certificate of competency to be an under-manager of a mine.

30 (4) No person, other than an owner, a superintendent or a manager of an underground mine, shall appoint a person as an under-manager in charge of the whole or of an underground part of an underground mine.

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**Under-managers.**

40. (1) The owner, the superintendent or the manager of an underground mine may appoint a person as an under-manager of the whole or of an underground part of the mine or appoint a number of persons as under 5 managers of the several underground parts of the mine.

(2) A person may be appointed as an under-manager of the whole or of an underground part of an underground mine notwithstanding that no under-manager in charge of the whole or of the underground part of the mine has been appointed under section 39.

10 (3) The owner, the superintendent or the manager of an underground mine shall not appoint a person as an under-manager of the whole or of an underground part of the mine unless the person is the holder of a certificate of competency to be an under-manager of a mine.

15 (4) No person, other than an owner, a superintendent or a manager of an underground mine, shall appoint a person as an under-manager of the whole or of an underground part of an underground mine.

**Functions of under-managers in charge and under-managers.**

41. (1) An under-manager in charge, or an under-manager, of an underground mine may have jurisdiction in respect of the whole of the mine or his 20 jurisdiction may be limited to an underground part of the mine.

(2) Each under-manager in charge, and each under-manager, of an underground mine shall enforce the observance, by all persons employed in—

(a) where the whole of the mine is under his jurisdiction—the mine; 25 or

(b) where the whole of the mine is not under his jurisdiction—the part of the mine which is under his jurisdiction,

of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder in working the mine 30 or that part of the mine, as the case may be.

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(3) Subsection (2) does not apply to an under-manager of an underground mine during a period when he is not on duty at the mine.

(4) For the purposes of this section, where a part of an underground mine is to be under the separate jurisdiction of any under-manager in charge 5 or under-manager, the manager of the mine shall cause—

(a) that part of the mine to be identified by a distinguishing name or number; and

(b) the boundaries of that part of the mine to be—

10

(i) clearly marked underground in a manner approved by the district inspector; and

(ii) shown on a plan prepared, and displayed at the mine, as prescribed.

(5) The manager of an underground mine shall retain at the office of the mine a record of the starting and finishing times of the shifts of each 15 under-manager of the mine.

**Deputies.**

42. (1) The manager of an underground mine shall appoint such number of deputies as is sufficient in his opinion to carry out efficiently the functions at the mine conferred or imposed on deputies by this Act, the regulations, 20 the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

(2) The manager of an underground mine shall not appoint a person as a deputy unless that person is the holder of a certificate of competency to be a deputy and such other qualifications as may be prescribed.

25 (3) No person, other than a manager of an underground mine, shall appoint a person as a deputy in relation to an underground mine.

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**Examiners of open cut mines.**

**43. (1)** The manager of an open cut mine shall appoint such number of examiners of open cut mines as is sufficient in his opinion to carry out efficiently the functions at the mine conferred or imposed on examiners of 5 open cut mines by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

**(2)** The manager of an open cut mine shall not appoint a person as an examiner of an open cut mine unless that person is the holder of a certificate of competency to be an examiner of an open cut mine and such 10 other qualifications as may be prescribed.

**(3)** No person, other than a manager of an open cut mine, shall appoint a person as an examiner of an open cut mine.

**Surveyors.**

**44. (1)** Subject to subsection (2), the owner of a mine shall not work 15 the mine at any time when there is no person appointed as the surveyor for the mine.

**(2)** Where a vacancy occurs in the office of a surveyor for a mine, the mine may be worked for a period not exceeding 1 month, or such longer period as the district inspector may allow, until the vacancy is filled.

20 **(3)** The owner, the superintendent or the manager of a mine may appoint a person as the surveyor for the mine.

**(4)** The owner, the superintendent or the manager of a mine shall not appoint a person as the surveyor for the mine unless that person is the holder of such qualifications as may be prescribed.

25 **(5)** No person, other than an owner, a superintendent or a manager of a mine, shall appoint a surveyor for a mine.

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**Appointment, qualifications and duties of certain officials, etc.**

45. (1) Regulations may be made—

- 5 (a) requiring or authorising the appointment at all mines, at a particular class or description of mine or at a particular mine of such officials (not being officials the appointment of whom is required or authorised by a provision of this Act), engineers and technicians as may be specified in the regulations; and
- 10 (b) specifying the qualifications to be held by a person who is required or authorised to be appointed by a provision of a regulation made under paragraph (a).

(2) Regulations may be made requiring the appointment at all mines, at a particular class or description of mine or at a particular mine of such officials (being officials the appointment of whom is authorised, but is not required, by a provision of this Act) as may be specified in the regulations.

15 (3) Regulations may be made specifying the functions, or additional functions, as the case may require, of any official required or authorised to be appointed by a provision of this Act or of any official, engineer or technician required or authorised to be appointed by a provision of a regulation made under this section.

20 (4) Regulations may be made specifying additional qualifications to be held by any official required or authorised to be appointed by a provision of this Act.

**Notification of appointment or nomination of certain officials and of changes in names, etc.**

25 46. (1) A person who appoints or nominates a person as the manager, deputy manager, under-manager in charge or under-manager of a mine, as a surveyor for a mine or as the holder of any position prescribed for the purposes of this subsection at a mine shall as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period)

30 send to the district inspector a notification in writing (or, if there is an approved form, in that form) containing—

- (a) the full name, address and title of the person so appointed or nominated;



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- (b) the date of his appointment or nomination;
  - (c) details of the certificate of competency held by him, including the registered number thereof; and
  - (d) such other particulars as may be prescribed.
- 5           (2) Where the jurisdiction of an under-manager in charge or an under-manager of an underground mine is limited to an underground part of the mine, that part of the mine shall be specified in the notification given under subsection (1) in respect of the under-manager in charge or under-manager and the notification shall be countersigned by the under-manager
- 10 in charge or under-manager, as the case may be.
- (3) The owner of a mine shall, within 14 days after a change—
- (a) in the name of the mine;
  - (b) in the name of the owner of the mine; or
  - (c) in the name of the secretary or the manager of the company which
- 15 is the owner of the mine,
- give to the district inspector a notice stating the particulars of the change.

*DIVISION 2.—Immediate supervision of working of mines.***Interpretation.**

20       **47. (1)** For the purposes of this Division, a mine shall be deemed to be being worked if any kind of work, whether mining or not, is being undertaken at the mine.

(2) In this Division, “on any day” means in any period of 24 hours ending at 12 midnight and “on that day” has a corresponding meaning.

**Manager, deputy manager or acting manager to be in attendance on each day on which a mine is worked.**

25       **48. (1)** The owner of a mine shall ensure that the mine is not worked on any day unless—

- (a) the manager of the mine attends the mine on that day and carries out his duties at the mine; or

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- (b) subject to subsection (5) and section 49, where the manager of the mine is or will be absent from the mine during the whole of that day—
- (i) a deputy manager of the mine; or
  - 5 (ii) a person appointed by the owner or the superintendent of the mine to act as manager of the mine,
- attends the mine on that day and carries out the duties of the manager of the mine.
- (2) The owner or the superintendent of a mine shall not appoint a  
10 person under subsection (1) (b) (ii) unless that person is the holder of—
- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine or a certificate of competency to be an under-manager of a mine; or
  - 15 (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine.
- (3) A deputy manager attending a mine and exercising the functions of the manager of the mine in the circumstances referred to in subsection (1) (b) (i) or a person appointed to act as the manager of a mine under  
20 subsection (1) (b) (ii) shall, for the purposes of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder be deemed to be the manager of the mine with the same functions as the person whose functions he is exercising or in whose place he is appointed to act.
- 25 (4) Nothing in subsection (3) shall be construed as divesting a manager of a mine of any function conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.
- (5) Subject to section 49, where the manager of a mine does not  
30 attend the mine and carry out his duties at the mine for—
- (a) a period of 2 months and the Chief Inspector has not allowed a longer period under paragraph (b)—the provisions of subsection (1) (b) shall cease to have effect in relation to that mine as from the expiration of that period of 2 months; or

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(b) such period, in excess of 2 months, allowed by the Chief Inspector under this paragraph—the provisions of subsection (1) (b) shall cease to have effect in relation to that mine as from the expiration of that period.

5           (6) Where the owner of a mine knows that the manager of the mine will not be attending the mine for a period of 5 or more consecutive days, the owner shall give notice to that effect to the district inspector before the commencement of that period and inform him of the name, address and title of the person who will be carrying out the manager's duties during his  
10 absence.

**Working of mines where limited operations being undertaken.**

49. (1) Notwithstanding the provisions of section 48, the owner of an underground mine may work the mine on any day where—

- 15           (a) no mining is taking place at the mine and any operations underground at the mine do not involve—
- (i) the employment of more than 15 persons underground at any one time; or
  - (ii) any alteration to the mine ventilation system or any alteration to the ventilation of a part of the mine (other  
20 than an alteration which it is usual to make during the working of a part of the mine); and
- 25           (b) the owner, the superintendent or the manager of the mine has appointed a person, being a person who holds a certificate of competency to be a manager of a mine, a certificate of competency to be an under-manager of a mine or a certificate of competency to be a deputy, to be responsible for the carrying out of the operations at the mine on that day and that person attends the mine on that day.

30 (2) Notwithstanding the provisions of section 48, the owner of an underground mine may work the mine on any day when no persons are employed underground at the mine if the owner, the superintendent or the manager of the mine has appointed a competent person to be responsible for the carrying out of the operations at the mine on that day and that person attends the mine on that day.

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(3) Notwithstanding the provisions of section 48, the owner of an open cut mine may work the mine on any day when—

(a) no mining is taking place at the mine; and

(b) any other operations being undertaken at the mine do not involve the employment of more than 10 persons,

5 if the owner, the superintendent or the manager of the mine has appointed a person, being a person who holds a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine, to be responsible for the carrying out of the operations  
10 at the mine on that day and that person attends the mine on that day.

**Under-manager in charge or acting under-manager in charge to be in attendance on each day on which a mine is worked.**

50. (1) Where the owner of an underground mine is prohibited by section 39 (1) from working the mine unless there is a person appointed as  
15 an under-manager in charge of the whole of the mine, the owner of the mine shall ensure that the mine is not worked on any day unless—

(a) the person appointed as the under-manager in charge of the mine under section 39 attends the mine on that day and carries out his duties at the mine; or

20 (b) where that person is or will be absent from the mine during the whole of that day—a person appointed by the owner, the superintendent or the manager of the mine to act as under-manager in charge of the mine attends the mine on that day and carries out the duties of under-manager in charge of the mine.

25 (2) Where the owner of an underground mine is prohibited by section 39 (1) from working an underground part of the mine unless there is a person appointed as an under-manager in charge of that part of the mine, the owner of the mine shall not work the mine on any day unless—

30 (a) the person appointed as the under-manager in charge of that part of the mine under section 39 attends the mine on that day and carries out his duties at the mine; or

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(b) where that person is or will be absent from the mine on that day —a person appointed by the owner, the superintendent or the manager of the mine to act as under-manager in charge of that part of the mine attends the mine on that day and carries out the duties of under-manager in charge of that part of the mine.

(3) The owner, the superintendent or the manager of an underground mine shall not appoint a person under subsection (1) (b) or (2) (b) unless that person is the holder of a certificate of competency to be a manager of a mine or a certificate of competency to be an under-manager of a mine.

(4) A person appointed under this section to act as an under-manager in charge shall, for the purposes of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder be deemed to be an under-manager in charge with the same functions as the person in whose place he is appointed to act.

(5) Nothing in subsection (4) shall be construed as divesting an under-manager in charge of a mine or of part of a mine of any function conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

**Person qualified to be an under-manager to be in charge on any shift.**

51. (1) On and from the date that is 5 years after the day appointed and notified under section 2 (2), the owner of an underground mine shall not work the mine or a part of the mine on any shift unless the mine or the part of the mine, as the case may be, is in charge of a person who is qualified to be appointed as an under-manager.

- (2) Subsection (1) does not apply in respect of a mine where—
- (a) the only operations being carried out at the mine are on the surface; or
  - (b) no mining is taking place at the mine and any operations underground at the mine do not involve—
    - (i) the employment of more than 15 persons underground at any one time; or

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- (ii) any alteration to the mine ventilation system or any alteration to the ventilation of a part of the mine (other than an alteration which it is usual to make during the working of a part of the mine).

5 DIVISION 3.—*Owner's instructions to mine officials and employees.*

**Manager may require instructions to be confirmed in writing.**

10 **52.** Any instructions given to the manager of a mine or any other official or employee of the mine by or on behalf of the owner of the mine relating to the functions of the manager, other official or employee under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder shall be confirmed in writing by the person who gave them immediately after a request to do so is made by the manager, official or employee, as the case may be.

**Instructions to employees to be given through the manager.**

15 **53. (1)** Except in the case of an emergency, neither the owner of a mine nor a person acting on his behalf shall give to an official of the mine less senior than the manager of the mine or to an employee of the mine any instructions relating to the functions of the official or employee under this Act, the regulations, the rules and any schemes and any directions, or  
20 conditions of exemptions or approvals, given thereunder otherwise than through, or with the consent of, the manager of the mine.

(2) If instructions relating to the functions of an official or employee of a mine under this Act, the regulations, the rules or any schemes or any directions, or conditions of exemptions or approvals, given thereunder are  
25 given to—

- (a) an official of a mine less senior than the manager of the mine; or
- (b) an employee of the mine,

otherwise than through, or with the consent of, the manager of the mine, the person who gave the instructions shall inform the manager of the mine  
30 immediately of the substance of the instructions.

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**Certain instructions not to be executed unless confirmed.**

**54. (1)** Without limiting the generality of section 52—

(a) where instructions are given to—

(i) the manager of a mine;

5 (ii) an official of a mine less senior than the manager of a mine;  
or

(iii) an employee of a mine,

10 by the owner of a mine or by a person on behalf of the owner of  
the mine (being, in either case, an owner or a person who is not  
qualified for appointment or nomination as the manager of the  
mine); and

(b) the manager of the mine is of the opinion that the execution of the  
15 instructions would, or might be likely to, prejudice the safety or  
health of any person employed at the mine or impede any person  
employed at the mine in the exercise of any function conferred or  
imposed on him by or under this Act,

the manager of the mine shall—

(c) where the instructions are given to him, decline to execute them  
until they are confirmed in writing by a person—

20 (i) who is qualified for appointment or nomination as the  
manager of the mine; and

(ii) who, if he is not the owner of the mine, is authorised by  
the owner of the mine to confirm the instructions; or

(d) where the instructions are given to another person, direct that  
25 person not to execute the instructions until they are confirmed in  
writing by a person referred to in paragraph (c).

(2) A person given a direction under subsection (1) (d) shall comply  
with the direction.

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**Instructions confirmed in writing to be preserved.**

**55.** Where instructions to any person at a mine are confirmed in writing in accordance with this Division—

- 5 (a) the original instructions shall forthwith be delivered by the person who confirmed them to the manager of the mine; and
- (b) a copy of the instructions shall be kept by the owner of the mine or supplied by the person who confirmed them to the owner of the mine,

10 who shall preserve that original or copy, as the case may be, for at least 6 years after the instructions cease to be effective.

*DIVISION 4.—Delegation of functions by the manager of a mine.*

**Manager may delegate functions.**

**56 (1)** Subject to this Division, the manager of a mine may, by instrument in writing, delegate to an official or other person employed at the mine 15 the exercise of such of the functions conferred or imposed on him by or under this Act as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

**(2)** Where a form of instrument of delegation is approved for the purposes of this section, a delegation under this section shall be in that form 20 and shall contain such matters as are required to be inserted in that form.

**(3)** Subject to section 57, a delegation under this section has no effect unless it is countersigned by the delegate.

**(4)** The manager of a mine shall not delegate under subsection (1) the exercise of—

- 25 (a) his power of delegation; or
- (b) such of his functions as are prescribed for the purposes of this subsection.



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(5) Regulations may be made prescribing, in respect of the functions of a manager of a mine that may be delegated under subsection (1)—

- (a) the official or other person, or class of official or other person; or
- (b) the qualifications to be held by an official or a person,

5 to whom the exercise of a function may be delegated.

(6) Where a regulation referred to in subsection (5) is made in respect of a function of a manager of a mine, the manager shall not delegate the exercise of that function other than to—

- (a) an official or a person;
  - 10 (b) an official or a person belonging to a class of official or person; or
  - (c) an official or a person holding the qualifications,
- prescribed under that subsection.

(7) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions  
15 delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(8) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

20 (9) Any act or thing done or suffered by a delegate while exercising a function delegated to him under this section has the same force and effect as if the act or thing had been done or suffered by the manager.

(10) A function, the exercise of which has been delegated by the manager of a mine under this section, shall, while the delegation remains  
25 unrevoked—

- (a) be deemed not to be the function of the manager; and
  - (b) be deemed to be the function of the delegate,
- for the purposes of this Act.

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**Instruments of delegation to be countersigned by delegate.**

57. (1) Subject to subsection (2), a delegate under an instrument of delegation executed under section 56 shall countersign the delegation.

(2) A delegate may refuse to countersign an instrument of delegation under section 56 if he is of the opinion that the delegation is unreasonable.

(3) Where a delegate refuses to countersign an instrument of delegation executed by the manager of a mine under section 56, he shall serve a notice in writing (or, if a form is approved for the purposes of this subsection, in that form) on the manager within 7 days of the making of the delegation setting out the reasons for his refusal.

(4) A manager of a mine may—

- (a) on receipt of a notice served under subsection (3) in respect of a delegation; or
- 15 (b) if, within the period prescribed by subsection (3), no notice is served on him under that subsection in respect of a delegation which a delegate has refused to countersign,

either confirm or revoke the delegation.

(5) If a manager of a mine confirms a delegation under subsection 20 (4), he shall refer the delegation to a court which may hear and determine the matter and—

- (a) if it is of the opinion that the delegation is reasonable—order that the delegation be deemed to have been countersigned by the delegate; or
- 25 (b) if it is of the opinion that the delegation is unreasonable—order that the delegation be deemed to have been revoked,

and make such other order in relation to the delegation as it thinks fit.

(6) An order made under subsection (5) shall have effect according to its tenor.

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**Copies of instruments of delegation to be sent to the district inspector.**

58. (1) A manager of a mine shall send a copy of any instrument of delegation executed by him under section 56 to the district inspector as soon as practicable (or, if a period is prescribed for the purposes of this sub-5 section, within that period) after the execution of the instrument.

(2) Where an instrument of delegation executed by the manager of a mine under section 56—

10 (a) is countersigned or deemed to have been countersigned by the delegate after a copy thereof has been sent to the district inspector in accordance with subsection (1); or

(b) is revoked or deemed to have been revoked,  
the manager shall so advise the district inspector in writing as soon as practicable thereafter.

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**PART IV.****15 MINE INSPECTION AND SAFETY PROVISIONS.****DIVISION 1.—*Inspectors' powers of entry, inspection, etc.*****Powers generally.**

59. (1) An inspector shall, for the purpose of the execution of this Act, have the power to do all or any of the following things:—

- 20 (a) at any time (whether by day or by night) to—
- (i) enter a mine and inspect the whole or any part of the mine and anything at the mine;
  - (ii) enter upon any land, place or premises (other than a mine) or vehicle in the performance of his functions under this
- 25 section;

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(b) to make such examination and inquiry as may be necessary to ascertain—

- 5 (i) whether, so far as regards a mine or persons employed at a mine, this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder have been complied with;
- (ii) whether there is at a mine any matter or thing which affects or is likely to affect the safety or health of persons employed at the mine;
- 10 (iii) the causes and circumstances of any accident or other occurrence at a mine;

(c) subject to subsection (2), to take with him in, or on, to any mine or other land, place or premises or vehicle, for the purpose of any inspection, examination or inquiry, such persons as he

15 considers necessary to assist him in the performance of his functions.

(2) Where—

- (a) in the case of a mine—the manager of the mine; or
- 20 (b) in the case of any other land, place or premises or any vehicle—  
a person occupying or having charge or control thereof,

objects to a person referred to in subsection (1) (c) entering the mine, land, place, premises or vehicle, that person shall not enter the mine, land, place, premises or vehicle unless the approval of the Chief Inspector, either orally or in writing, is obtained.

## 25 Supplementary powers.

60. (1) For the purpose of any inspection, examination or inquiry referred to in section 59, an inspector shall have power to do all or any of the following things:—

- (a) subject to subsection (2), to require any person—
- 30 (i) whom he finds at a mine or whom he has reasonable cause to believe to be, or within the preceding 2 months to have been, employed at the mine; and

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- 5 (ii) who has been informed of the provisions of subsection (2), to answer (in the absence of persons, other than a person nominated to be present by the person to be questioned and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask;
- (b) to take samples of any articles or substance found at a mine or of the atmosphere in a mine;
- 10 (c) subject to subsections (3) and (4), to take possession of any machinery, apparatus or other article at a mine which appears to him to have caused, or to be likely to cause, danger to safety or health of any persons employed at the mine and cause it to be dismantled, removed or subjected to any process or test, notwithstanding that it is thereby damaged or destroyed;
- (d) to require the production of, and to inspect—
- 15 (i) any registers, books, plans or other documents which by virtue of this Act and the regulations are required to be kept; and
- (ii) any other documents, being documents which are in the possession or under the control of the owner or the manager
- 20 of a mine and are relevant for the purposes of such an examination or inquiry;
- (e) to require the manager of a mine to mark or cause to be marked on any plan of workings in the mine produced in compliance with a requirement imposed under paragraph (d) such information as the inspector considers relevant to such an examination or
- 25 inquiry;
- (f) to require any person having responsibilities under this Act in relation to a mine to give him such facilities and assistance, with respect to any matters or things to which the responsibilities
- 30 of that person extend, as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by section 59 and this section.

(2) An answer given by a person in pursuance of a requirement imposed under subsection (1) (a) shall not be admissible in evidence against

35 him in any proceedings except proceedings for an offence under section 62 (e).

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(3) Where it appears likely to the manager of a mine that a process or test referred to in subsection (1) (c) will result in machinery, apparatus or an article being damaged or destroyed, the manager may request the inspector concerned not to subject the machinery, apparatus or article to the process or test.

(4) Where the manager of a mine makes a request to an inspector under subsection (3) in respect of machinery, apparatus or an article, the inspector shall not subject the machinery, apparatus or article to any process or test unless the approval of the Chief Inspector, either orally or in writing, is obtained.

**Inspector to inform mine management of certain matters.**

61. If, as a result of the exercise at or in connection with a mine of any of the powers conferred on him under section 59 or 60, an inspector obtains any information or becomes aware of any practice at the mine which may, in his opinion, be relevant to the continued safe operation of the mine or the safety of the persons employed at the mine, he shall, as soon as possible, so advise the manager of the mine or, if he is not present at the mine, the next most senior mining official on duty at the mine.

**Offences.**

62. A person shall not—

- (a) wilfully fail to comply with any requirement imposed by an inspector under this Division;
- (b) wilfully prevent, or attempt to prevent, any other person from appearing before an inspector or from answering any question to which an inspector may, by virtue of section 59 or 60, require an answer;
- (c) without permission granted by an inspector, wilfully remove from a mine, or conceal or tamper with, any machinery, apparatus or other article of which possession has been taken by an inspector under section 60;

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- (d) wilfully fail to comply with a requirement made under section 60 (1) (a) within a period of 24 hours of the requirement being made;
- 5 (e) in giving any answer required of him by an inspector under section 60 (1) (a) make a statement which he knows to be false in a material particular or recklessly make a statement which is false in a material particular; or
- (f) wilfully obstruct an inspector in the exercise of his functions.

DIVISION 2.—*Inspectors' powers where mine dangerous.***10 Inspector may impose prohibitions or restrictions or direct evacuation or closure of mine.**

**63. (1)** If an inspector is of the opinion that a mine or any part thereof or any matter, thing or practice at a mine or connected with the control or management of a mine is, or is liable shortly to become, dangerous to the  
15 safety or health of any persons employed at the mine, he may serve on the owner or the manager of the mine a notice—

- (a) stating that he is of that opinion; and
- (b) giving particulars of his reasons for being of that opinion,  
and, by way of that notice—
- 20 (c) impose upon that owner or manager such prohibitions and restrictions, and require that owner or manager to carry out such works or do such things—
  - (i) as appear to the inspector to be necessary for the purpose  
of safeguarding the safety or health of the persons  
25 employed at the mine; and
  - (ii) as are set out in the notice; or
- (d) direct that owner or manager to cause the mine or any part thereof—
  - (i) to be evacuated immediately; or
  - 30 (ii) to be closed, either indefinitely or for such period as is specified by the inspector,
 or give a direction under both subparagraphs (i) and (ii),

or he may both impose prohibitions and restrictions under paragraph (c) and give a direction under paragraph (d).

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(2) A prohibition, restriction or requirement imposed, or a direction given, by way of a notice served under subsection (1) may—

(a) be subject to such exemptions as are set out in the notice; and

(b) operate either indefinitely or for such period as is set out in the notice.

(3) An inspector may, in any notice served under subsection (1), require the notice to be complied with immediately or within a period specified in the notice.

(4) Where a notice under subsection (1) cannot be readily served on the owner or the manager of a mine and the circumstances necessitate that the action required by the notice be taken immediately, it may be served on the next senior mining official at the mine.

(5) Where a notice is served by an inspector on the next senior mining official at a mine in accordance with subsection (4), the inspector shall, as soon as practicable, serve on the owner or the manager of the mine a signed copy of the notice.

(6) A copy of a notice served by an inspector under subsection (1) or (4) shall be forwarded immediately by the inspector to the Chief Inspector.

(7) Any notice served under subsection (1) or (4) shall remain in force until it is varied or revoked by the Chief Inspector pursuant to section 65 (2) or by an order of a court pursuant to section 65 (4) unless it sooner expires.

**Authorised persons may enter mine to carry out repairs, etc.**

64. (1) An inspector may authorise persons to enter a mine or a part thereof and carry out repair or other work therein notwithstanding the terms of any notice served under section 63.

(2) A person acting under an authority given in accordance with subsection (1) shall not be guilty of an offence arising under section 63.



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**Objections to notices, directions, etc.**

65. (1) If a person served with a notice under section 63 (1) or (4) objects to complying with any prohibition, restriction, requirement or direction set out in the notice, he may state the grounds of his objections in writing and submit them to the Chief Inspector.

(2) The Chief Inspector shall, within 21 days of the receipt of an objection submitted to him under subsection (1), confirm, vary or revoke the notice in respect of which the objection was submitted.

(3) If the owner or the manager of a mine is dissatisfied with any decision of the Chief Inspector made under subsection (2) in respect of the mine of which he is the owner or manager, he may appeal to a court.

(4) A court may confirm, vary or revoke—

- (a) any notice served under section 63; or
- (b) any decision of the Chief Inspector made under subsection (2),

in respect of which an appeal is made under subsection (3).

(5) Where—

- (a) a notice is varied under subsection (2), the notice as varied shall remain in force until it is varied or revoked by a court pursuant to subsection (4) unless it sooner expires;
- (b) a notice is varied under subsection (4), the notice shall have force as varied; and
- (c) a decision is varied under subsection (4), the notice in respect of which the decision was given shall have force as affected by the decision as varied.

**25 Prohibition, etc., to be complied with notwithstanding objection or appeal.**

66. (1) Subject to subsection (2), a notice served under section 63 shall, while it remains in force, be complied with notwithstanding that an objection to the Chief Inspector or an appeal to a court has been made pursuant to section 65.

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(2) Where a decision is made by the Chief Inspector or a court in respect of a notice served under section 63 (not being a decision to revoke the notice), the notice as affected by that decision shall be complied with.

**Offence.**

5 67. A person shall not fail to comply with a prohibition, restriction or requirement imposed on him, or with a direction given to him, under this Division.

Penalty: \$10,000.

**Court orders.**

10 68. (1) Where any person fails to comply with a prohibition, restriction or requirement imposed on him, or with a direction given to him, under this Division, a court, on the application of the Chief Inspector, may, whether or not that person has been prosecuted in respect of that failure, order that person to comply with the prohibition, restriction, requirement or direction,  
15 as the case may require.

(2) A person who fails to comply with an order under subsection (1) shall be dealt with as for contempt of court.

**DIVISION 3.—Departmental officers' powers of entry.****Authorised officers may enter mines for certain purposes.**

20 69. A person who holds a position in the Public Service and who is authorised in writing by the Chief Inspector may enter any mine for any purpose specified in the authority.

**Obstruction, etc., of authorised officers.**

25 70. (1) A person shall not wilfully obstruct or prevent any person authorised by the Chief Inspector under section 69 from carrying out the purpose specified in the authority.

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(2) An owner, a superintendent or a manager of a mine shall not refuse or neglect to furnish to a person authorised by the Chief Inspector under section 69 the means necessary for making any entry into the mine and carrying out the purpose specified in the authority.

5                   DIVISION 4.—*Inspections on behalf of workmen.*

**Check inspectors.**

71. (1) For the purpose of enabling inspections to be carried out at a mine on behalf of the persons employed at the mine, 2 persons who are practical miners may be elected as check inspectors for the mine.

10               (2) At least one of the persons elected in respect of a mine under subsection (1) shall be employed at the mine.

(3) At least one of the persons elected in respect of a mine under subsection (1) shall have had—

- 15               (a) where the mine is an underground mine—not less than 3 years' practical experience in underground coal mining; and
- (b) where the mine is an open cut mine—not less than 3 years' practical experience in open cut coal mining.

(4) At least one of the persons elected in respect of an underground mine under subsection (1) shall be the holder of a certificate of competency  
20 to be a deputy.

**Election of check inspectors.**

72. For the purposes of section 71, regulations may be made prescribing—

- 25               (a) the persons, or class of person, entitled to vote at an election under that section; and
- (b) the manner in which an election under that section shall be held.

*Coal Mines Regulation.***Powers of check inspectors.**

73. (1) Subject to subsections (2), (3) and (4), a check inspector for a mine shall be allowed to inspect the mine.

(2) For the purposes of an inspection under this Division, a check  
5 inspector shall be accompanied by—

(a) the manager of the mine; or

(b) other officials of the mine,

if the manager of the mine thinks fit.

(3) An inspection of a mine by a check inspector shall be at the  
10 check inspector's own cost unless it is otherwise agreed between the check  
inspector and the manager of the mine.

(4) An inspection of a mine by a check inspector shall not be  
conducted so as to impede or obstruct the working of the mine.

(5) Without limiting the generality of subsection (1), a check  
15 inspector for a mine may—

(a) at any time go into and inspect the shafts, roadways, working  
places, old workings and machinery and equipment at the mine;

(b) inspect any documents or plans which by virtue of this Act or the  
regulations are required to be kept at the office of the mine;

20 (c) where there is at the mine an accident or other occurrence (being  
an accident or occurrence for which notice is required by or under  
this Act to be given), inspect the place where the accident or  
other occurrence happened and, so far as is necessary for the  
purpose of ascertaining its cause—

25 (i) inspect any other part of the mine and any machinery,  
apparatus or other thing thereat; and

(ii) test the atmosphere at the place where the accident or  
other occurrence happened.

(6) A check inspector who is not a district check inspector shall  
30 not leave his place of work for the purpose of making an inspection under  
this section unless he gives reasonable notice to an official of his intention  
to do so.

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*Coal Mines Regulation.*

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**Assistance to check inspectors.**

74. The manager of a mine and all other persons at the mine shall afford every facility and assistance to a check inspector for the purposes of an inspection of the mine by him.

**5 Reports by check inspectors.**

75. (1) A check inspector for a mine shall, within 7 days of making an inspection of the mine or of any part thereof, send to the manager of the mine a report of the results of the inspection.

(2) A report under subsection (1) in respect of a mine or a part of 10 a mine shall be preserved at the mine by the manager of the mine for at least 12 months after it is made.

**Reporting of dangers.**

76. (1) A report of the finding, during any inspection by a check inspector for a mine, of—

- 15 (a) noxious or flammable gas;
- (b) the existence of self-heating by coal or other material; or
- (c) any other condition from which danger to the mine or to the safety or health of persons employed thereat may be apprehended,

shall be recorded by the check inspector in a book (to be kept at the mine 20 by the manager of the mine for that purpose) on the day of the inspection and before he leaves the mine following the inspection.

(2) If any report recorded under subsection (1) in respect of a mine states the existence, or suspected existence, of any danger, the manager of the mine shall forthwith orally inform the district inspector of the contents 25 of the report and cause a copy of the report to be sent to the district inspector.

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*Coal Mines Regulation.*

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**District check inspectors.**

77. (1) A person may be elected as the district check inspector for a mine.

(2) A person elected as a district check inspector shall have such 5 experience and qualifications as are prescribed for the purposes of this subsection.

**Election of district check inspectors.**

78. For the purposes of section 77, regulations may be made prescribing—

- 10 (a) the persons, or class of person, entitled to vote at an election under that section; and
- (b) the manner in which an election under that section shall be held.

**District check inspector may act as check inspector.**

79. (1) Where 2 persons have not been elected as check inspectors for 15 a mine in accordance with this Division, a district check inspector elected for the mine in accordance with this Division may act as a check inspector for the mine.

(2) Not more than one district check inspector shall act as a check inspector for a mine at the one time.

**20 Electrical check inspectors.**

80. (1) For the purposes of enabling inspections of electrical equipment to be carried out at a mine on behalf of the persons employed at the mine, a person may be elected as an electrical check inspector for the mine.

(2) A person elected under subsection (1) shall—

- 25 (a) be the holder of a mine electrical engineer's certificate of competency, a trade rights certificate or an indenture of electrical tradesman; and

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- (b) where the person is the holder of a trade rights certificate or an indenture of electrical tradesman—have not less than 5 years' experience in coal mines in New South Wales.
- (3) Not more than one electrical check inspector shall be elected 5 for a mine.
- (4) The same person may be elected as an electrical check inspector for 2 or more mines.

**Election of electrical check inspectors.**

81. For the purposes of section 80, regulations may be made 10 prescribing—

- (a) the persons, or class of person, entitled to vote at an election under that section; and
- (b) the manner in which an election under that section shall be held.

**Powers of electrical check inspectors.**

15 82. (1) Subject to subsection (2), an electrical check inspector shall be allowed to inspect the electrical equipment at a mine for which he has been elected.

(2) Sections 73 (2), (3) and (4), 74 and 75 apply, in respect of a mine, to and in respect of electrical check inspectors in the same way as they 20 apply to and in respect of check inspectors for a mine.

**Reporting of dangers.**

83. (1) The finding, during any inspection of a mine by an electrical check inspector, of any danger, or suspected danger, to the mine or to the safety or health of persons employed thereat shall be recorded by the electrical 25 check inspector in a book (kept at the mine by the manager of the mine for that purpose) on the day of the inspection and before he leaves the mine following the inspection.

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*Coal Mines Regulation.*

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(2) If any report under subsection (1) in respect of a mine states the existence, or suspected existence, of any danger, the manager of the mine shall forthwith cause a copy of the report to be sent to the district inspector.

**Notification of election.**

5 **84.** A person elected as a check inspector, district check inspector or electrical check inspector for a mine shall—

- (a) notify the manager of the mine and the district inspector of his election; and
- (b) furnish to them his address and telephone number.

10 **DIVISION 5.—Notification of accidents and dangerous occurrences.**

**Interpretation.**

**85.** In this Division—

“dangerous occurrence” means an occurrence which is specified in the regulations as being a dangerous occurrence;

15 “serious bodily injury” means an injury which is specified in the regulations as being a serious bodily injury.

**Notification of accidents.**

**86. (1)** Where an accident occurs at a mine, being an accident which causes the death of, or serious bodily injury to, a person, the manager of the  
20 mine shall—

- (a) forthwith give oral notice of the accident to the district inspector and to the district check inspector; and
- (b) within 24 hours next after the accident send a written notice to the district inspector and to the district check inspector stating—  
25
  - (i) the nature of the accident;
  - (ii) the names of the persons killed or injured; and
  - (iii) the number of persons killed or injured.



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*Coal Mines Regulation.*

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(2) If a form is approved for the purposes of subsection (1) (b), a notice referred to in that paragraph shall be in or to the effect of that form.

**Notice of death following injury.**

87. Where—

- 5 (a) an accident causing serious bodily injury is notified under section 86 in respect of a mine; and
- (b) a person injured as a result of the accident dies after the notification is given,

notice of the death shall, as soon as it comes to the knowledge of the manager  
10 of the mine, be given by him to the district inspector and the district check inspector.

**Accidents involving persons not employed by the owner of a mine.**

88. Where—

- 15 (a) a person employed at a mine dies or suffers serious bodily injury as a result of an accident at the mine; and
- (b) the owner of the mine is not the actual employer of that person, the actual employer shall immediately report the accident to the manager of the mine.

**Notification of dangerous occurrences.**

- 20 89. (1) Where there is a dangerous occurrence at a mine, whether death or serious bodily injury is caused or not, the manager of the mine shall—
- (a) forthwith give oral notice of the dangerous occurrence to the district inspector and to the district check inspector; and
- 25 (b) within 24 hours next after the occurrence send a written notice to the district inspector and to the district check inspector stating the nature of the occurrence.

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(2) If a form is approved for the purposes of subsection (1) (b), a notice referred to in that paragraph shall be in or to the effect of that form.

**Place of accident, etc., not to be disturbed.**

90. (1) Subject to subsection (2), where there is at a mine—

- 5 (a) an accident causing death or serious bodily injury; or  
(b) a dangerous occurrence,

no person shall disturb, or direct another person to disturb, the place of the accident or dangerous occurrence, or tamper with anything at that place, before—

- 10 (c) the expiration of 2 clear days after the first notification of the accident or dangerous occurrence is given in accordance with this Division; or  
(d) that place has been visited by both an inspector and check inspector,

15 whichever first occurs.

(2) Nothing in subsection (1) shall prohibit—

- (a) the doing of anything by or with the consent of an inspector; or  
(b) the doing of anything necessary for ensuring the safety of the mine or any part of the mine or of any persons at the mine.

**20 Inspectors to visit mine as soon as practicable.**

91. The inspector and check inspector to whom notice of an accident or a dangerous occurrence at a mine has been given under this Division shall visit the mine as soon as practicable after receipt of the notice and complete their examinations and inspections as expeditiously as the circumstances  
25 permit.

**Location and nature of accidents to be recorded.**

92. (1) The manager of a mine shall cause a notation to be made on the plan of the mine kept in accordance with the regulations indicating the location of any accident at the mine causing death or serious bodily injury.

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(2) The manager of a mine shall record the nature of any accident at the mine causing death or serious bodily injury in a book of an approved type kept by him at the mine.

**DIVISION 6.—Investigation of accidents and dangerous occurrences.**

**5 Interpretation.**

**93.** In this Division, “dangerous occurrence” and “serious bodily injury” have the same meaning as in Division 5.

**Minister may require special reports.**

**94.** Where there is at a mine—

- 10 (a) an accident causing death or serious bodily injury; or  
 (b) a dangerous occurrence,

the Minister may—

- (c) at that time or some later time direct an inspector to make a special report with respect to the accident or dangerous occurrence; and  
 15 (d) if he thinks fit, cause the report to be made public at such time and in such manner as he thinks fit.

**Minister may direct the court to hold a formal investigation.**

**95. (1)** Where it appears to the Minister that a formal investigation of any—

- 20 (a) accident causing death or serious bodily injury at a mine and its causes and circumstances;  
 (b) dangerous occurrence at a mine and its causes and circumstances;  
 or  
 (c) practice at a mine which, in the opinion of the Minister, adversely  
 25 affects or is likely to adversely affect the safety or health of persons employed at the mine,

is necessary, the Minister may direct a court to hold the investigation.

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(2) Where a court is directed under subsection (1) to hold an investigation in respect of an accident, a dangerous occurrence or a practice at a mine, it shall hold the investigation—

(a) in open court; and

5 (b) in such manner and under such conditions as the court may think most effectual for—

(i) ascertaining the causes and circumstances of the accident or dangerous occurrence; or

10 (ii) determining whether the practice adversely affects or is likely to adversely affect the safety or health of persons employed at the mine,

and enabling the court to make its report to the Minister as required by section 98.

**Powers of court.**

15 **96.** A court shall have, for the purpose of an investigation under this Division, all the powers of an inspector under this Act and, in addition, the following powers:—

(a) by summons signed by the court, to require the attendance of such persons as it thinks fit to call before it and examine;

20 (b) to require answers or returns to such inquiries as it thinks fit to make;

(c) to require the production of such books, papers, plans and documents as it thinks fit;

25 (d) to require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

**Witnesses' expenses.**

**97. (1)** Persons attending as witnesses at an investigation held by a court under this Division shall be allowed such expenses as would be allowed to witnesses attending before the Supreme Court in its common law  
30 jurisdiction.

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(2) In the case of a dispute as to the amount of expenses to be allowed under subsection (1), the matter shall be referred by the court to the Prothonotary, who, on a request signed by the court, shall ascertain and certify the proper amount of the expenses.

**5 Report to Minister.**

98. A court shall, upon the holding of an investigation under this Division in respect of an accident, a dangerous occurrence or a practice at a mine, make a report to the Minister, stating—

10 (a) the causes of the accident or dangerous occurrence and its circumstances; or

(b) its findings in relation to the practice,

as the case may require, and adding any observations which the court thinks right to make.

**Costs of investigation.**

15 99. All expenses incurred in, or in connection with, an investigation under this Division (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Minister in the execution of this Act.

**Offences.**

20 100. A person shall not, without reasonable excuse (proof whereof shall lie on him), either—

(a) fail, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this Division; or

25 (b) prevent or impede a court in the execution of its duty.

Penalty: \$500.

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DIVISION 7.—*Rules and schemes.***Transport rules.**

101. (1) The manager of a mine shall make rules (to be known as “transport rules”), not inconsistent with this Act, with respect to the use of 5 vehicles at the mine.

(2) Without limiting the generality of subsection (1), the manager of a mine shall, under that subsection—

- 10 (a) if the mine is an underground mine—make transport rules with respect to such matters as are prescribed for the purposes of this paragraph; and
- (b) if the mine is an open cut mine—make transport rules with respect to such matters as are prescribed for the purposes of this paragraph.

**Support rules.**

102. (1) The manager of an underground mine shall make rules (to be 15 known as “support rules”), not inconsistent with this Act, with respect to the support of the roof and sides of working places and roadways in the mine.

(2) Where support of the roof and sides of working places and roadways in an underground mine is to be removed under the system of mining in use at the mine, the manager of the mine shall include in the rules 20 made under subsection (1) rules, not inconsistent with this Act, for the removal of that support.

(3) Without limiting the generality of subsections (1) and (2), the manager of a mine shall—

- 25 (a) under subsection (1)—make support rules with respect to such matters as are prescribed for the purposes of this paragraph; and
- (b) under subsection (2)—make support rules with respect to such matters as are prescribed for the purposes of this paragraph.

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*Coal Mines Regulation.*

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**Schemes for the testing of electrical or mechanical apparatus.**

103. (1) The manager of a mine shall prepare a scheme for the systematic examination or testing of electrical apparatus and mechanical apparatus at the mine.

5 (2) Without limiting the generality of subsection (1), the manager of a mine shall include in a scheme prepared under that subsection provisions with respect to such matters as are prescribed for the purposes of this subsection.

**Other rules or schemes.**

10 104. (1) Regulations may be made requiring the manager of a mine to make rules or prepare a scheme in relation to any subject-matter which—

(a) concerns the safety, health, conduct or discipline of persons in mines; and

(b) is prescribed for the purposes of this section,

15 not being a subject-matter in respect of which rules are required to be made or a scheme prepared under any other provision of this Act.

(2) Without limiting the generality of subsection (1), the manager of a mine shall, in respect of a subject-matter prescribed under subsection (1)—

20 (a) make, under that subsection, rules with respect to such matters as are prescribed for the purposes of this paragraph in respect of that subject-matter; or

(b) include in a scheme prepared under that subsection provisions with respect to such matters as are prescribed for the purposes of this

25 paragraph in respect of that subject-matter,

as the case may require.

**Copies of rules and schemes to be sent to the district inspector.**

105. (1) The manager of a mine shall send to the district inspector within 7 days of—

30 (a) making any rules, or any alteration thereto, under this Division; or

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(b) preparing a scheme, or any alteration thereto, under this Division, a copy of the rules, scheme or alteration.

(2) A district inspector shall, within 28 days of the receipt of rules, a scheme or an alteration sent to him by the manager of a mine under 5 subsection (1)—

- (a) serve on the manager a notice confirming the rules, scheme or alteration; or
- (b) take action under section 106 in respect of the rules, scheme or alteration.

**10 District inspector may require changes to rules and schemes.**

**106.** If a district inspector is of the opinion that, in respect of any rules or a scheme made or prepared under this Division for a mine—

- (a) provision ought to be made in those rules or that scheme for any matter for which provision is not made; or
- 15 (b) that a provision different from a provision of those rules or that scheme ought to be made,

he may serve on the manager of the mine a notice—

- (c) stating that he is of that opinion; and
- 20 (d) requiring the manager, before the expiration of such period as is specified in the notice, to take such action to change those rules or that scheme as is specified in the notice.

**Appeal to Chief Inspector.**

**107. (1)** The manager of a mine may, within 14 days of the service on him of a notice under section 106, appeal to the Chief Inspector against the 25 notice.

(2) The Chief Inspector shall, within 21 days of the receipt of an appeal under subsection (1), revoke, vary or confirm the notice appealed against.



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**Appeal to court (support rules).**

**108. (1)** The manager of a mine who is dissatisfied with any decision of the Chief Inspector in respect of support rules or alterations thereto may, within 14 days of being notified of the decision, appeal to a court against the decision.

**(2)** A court may revoke, vary or confirm a notice under section 106 in respect of which an appeal has been made under subsection (1).

**Manager to comply with notice.**

**109.** The manager of a mine served with a notice under section 106 shall—

- (a) unless he appeals under section 107 or sections 107 and 108 against the notice, comply with the notice; and
- (b) if he appeals under section 107 or sections 107 and 108 against the notice and the notice is not revoked by the Chief Inspector or a court, comply with the notice or the notice as varied by the Chief Inspector or a court, as the case may be.

**Date of effect of rules or schemes.**

**110.** Any rules or a scheme made or prepared under this Division, or an alteration thereto, in respect of a mine shall take effect—

- (a) from the date that is 7 days after the date of service of a notice of confirmation under section 105 (2) (a) in respect thereof; or
- (b) where—
  - (i) a notice in respect thereof is served on the manager of the mine under section 106; and
  - (ii) the notice is revoked by the Chief Inspector or a court on appeal under section 107 or 108,from the date that is 7 days after the date of revocation of the notice.

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**Copies of rules and schemes to be available.**

111. (1) A copy of all rules and schemes made or prepared under this Division for the time being in force in respect of a mine shall be kept by the manager of the mine at the office of the mine and be made available 5 for inspection by persons employed at the mine.

(2) The manager of a mine shall cause notices containing a summary of so much of the rules or schemes made or prepared under this Division as affects any person to be kept exhibited at suitable places at the mine so that they may be easily seen and read by that person.

10 (3) The manager of an underground mine shall cause copies of all support rules in force in respect of a mine—

(a) to be kept exhibited—

(i) at the surface of the mine in such a position as to be easily seen and read by the persons employed at the mine; and

15 (ii) at the deputy's station for the district in which the mine is situated in such a position as to be easily seen and read by any persons attending the station; and

20 (b) to be supplied to such persons employed at the mine who, in his opinion, have need to refer to them in the performance of their duties.

**Officials and other persons to comply with rules and schemes.**

112. Any official or other person employed at a mine shall comply with the rules and schemes made or prepared under this Division in force 25 in respect of the mine.

**Form of rules or schemes.**

113. Rules or schemes made or prepared under this Division—

(a) shall be in such form; and

(b) shall be made or prepared subject to such qualifications, 30 as may be prescribed.

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DIVISION 8.—*Training rules.***Manager of mine to ensure that employees undertake training.**

114. The manager of a mine shall ensure that persons employed or to be employed at the mine undertake training in accordance with the provisions of—

- (a) any training scheme approved by the Joint Coal Board in respect of the mine pursuant to any order made or given by the Joint Coal Board; and
- (b) any training rules made pursuant to section 115.

**10 Making of training rules.**

115. Where the Minister is of the opinion that further provisions should be made for the training and instruction of persons employed or to be employed at a mine in addition to the provisions of any training scheme approved by the Joint Coal Board in respect of the mine pursuant to an order made or given by the Joint Coal Board, he may direct the manager of the mine to make training rules to include those further provisions.

**Appeal to court.**

116. Where a manager of a mine objects to complying with any direction given by the Minister pursuant to section 115, he may, within 21 days of service of the direction, appeal to a court.

**Copy of training schemes to be sent to the district inspector.**

117. The manager of a mine shall forward a copy of any training scheme referred to in section 114 (a) in respect of the mine and any amendments thereto to the district inspector within 28 days of the training scheme's being approved by the Joint Coal Board.

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**Copy of training rules to be sent to the district inspector.**

**118.** The manager of a mine shall forward a copy of any training rules made in pursuance of section 115 to the district inspector within 7 days of the making thereof.

**5 Training certificates.**

**119. (1)** A record of the training given to a person at a mine under a training scheme or training rules referred to in this Division shall be kept by the manager of the mine at the office of the mine until the expiration of a period of 12 months after the termination of that person's employment.

10 **(2)** The manager of a mine may, at the request of a person employed, or formerly employed, at the mine issue to that person a certificate indicating that the person has been given the training specified in the certificate.

**Employees to comply with training rules.**

15 **120.** Any persons employed at a mine who are required to undertake training by the training rules for that mine shall comply with those rules.

**DIVISION 9.—Closing of shafts and outlets in abandoned mines.****Closing of shafts and outlets.**

- 20 **121. (1)** The owner of a mine shall—
- (a) cause the surface entrance to every shaft or outlet at the mine which is not being used to be provided, within 30 days of the cessation of use, with an enclosure, barrier, plug or seal and cause that enclosure, barrier, plug or seal to be properly maintained; and
  - 25 (b) prior to the abandonment of the mine cause the surface entrance to every shaft or outlet thereof to be provided with an approved enclosure, barrier, plug or seal.

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(2) Where the owner of a mine is not the occupier of the land on which work is required to be carried out under subsection (1), the owner of the mine shall give reasonable notice to the occupier of the land before causing the work to be carried out.

**5 Obstruction of owner of mine.**

122. An occupier of land or other person shall not wilfully obstruct the owner of a mine or any other person in doing any act required to be done by or under section 121 (1).

**Certain unenclosed shafts or outlets to be public nuisances.**

10 123. Any shaft or outlet of a mine which is not provided with an enclosure, barrier, plug or seal as required by section 121 and which—

(a) is within 50 metres of any highway, road, footpath or place of public resort; or

(b) is in open or unenclosed land,

15 shall be deemed to be a public nuisance for the purposes of section 288 of the Local Government Act, 1919.

**Owners of land on which abandoned mines are situated may be required to close shafts and outlets.**

20 124. (1) The Minister may cause to be served on the owner of land on which is situated any shaft or outlet of an abandoned mine, which shaft or outlet is not provided with an approved enclosure, barrier, plug or seal, a direction requiring that owner to erect an approved enclosure, barrier, plug or seal within the period specified in the direction.

25 (2) A person to whom a direction is given under subsection (1) shall comply with the direction.

(3) If a person to whom a direction is given under subsection (1) does not comply with the direction within the period specified in the direction, the Minister may cause the work specified in the direction to be carried out.

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(4) Any costs or expenses incurred by the Minister under subsection (3) in carrying out any work specified in a direction given under subsection (1) shall be a debt due to the Crown by the person to whom the direction was given and shall be recoverable in a court of competent jurisdiction.

5 (5) In any proceedings instituted for the recovery from a person of a debt due by that person to the Crown under subsection (4), a certificate of the Minister that a specified amount is the amount of the debt so due shall be evidence of that fact.

(6) A debt due by any person to the Crown under subsection (4) is  
10 recoverable notwithstanding that that person is convicted of an offence under subsection (2).

(7) A person to whom a direction is given under subsection (1), or any person authorised by the Minister for the purposes of subsection (3), may, upon giving reasonable notice to the occupier of the land, enter on or  
15 remain on any land for the purpose of complying with the direction or with subsection (3), as the case may require.

(8) This section does not apply to the owner of land on which is situated—

- (a) a mine abandoned before the commencement of this section; or  
20 (b) a mine the subject of a concession under the Coal Mining Act, 1973.

DIVISION 10.—*Control of emplacement areas.*

**Interpretation.**

125. (1) In this Division, except in so far as the context or subject-matter  
25 otherwise indicates or requires—

“emplacement area” means—

- (a) any pile, heap, hole, excavation or place in which or on  
30 which reject (whether in a solid state or in a solution or suspension) is piled, heaped, dumped, accumulated, deposited or placed; and

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(b) any wall or other structure which retains or confines reject, whether or not that wall or structure is itself composed of reject,

5 but does not include an accumulation or deposit of reject situated underground;

“owner”, in relation to an emplacement area, means the occupier of any land on which the emplacement area is situated, whether the emplacement area is in use or not;

10 “reject” means any carbonaceous material, whether it is mixed with or attached to stone or not, which is left after the treatment of coal in a coal preparation plant or which is not dealt with as coal by the owner of a mine.

(2) For the purposes of this Division, an emplacement area—

15 (a) shall be deemed to be in use if its use has not been discontinued pursuant to section 127 (1) or 128 (5); and

(b) shall be deemed to be kept secure if—

(i) it is not unstable;

(ii) it is not on fire; and

(iii) no noxious water is escaping from it.

## 20 Establishment of emplacement areas.

126. (1) A person shall not establish any emplacement area after the commencement of this Division except with the approval of the Minister and in such manner and subject to such conditions as he may determine.

25 (2) The Minister’s approval under subsection (1) may be granted without limit as to time or may be for a specified period.

(3) A person applying for the Minister’s approval under this section shall furnish such information, documents and plans as the Minister may require.

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**Discontinuance of use of emplacement areas.**

127. (1) A person who has established an emplacement area pursuant to an approval granted under section 126 shall not discontinue to use that emplacement area without the Minister's approval.

5 (2) Notwithstanding the provisions of subsection (1), the district inspector may grant approval to cease using an emplacement area established pursuant to an approval granted under section 126 for a period not exceeding 6 months subject to such conditions as he may determine.

10 (3) A person shall not re-commence using an emplacement area which he has ceased using by virtue of an approval granted under subsection (2) without the consent of the district inspector.

**Emplacement areas in use at the commencement of this Division.**

15 128. (1) The owner of an emplacement area in use at the commencement of this Division who intends to discontinue using that area for a period in excess of 6 months shall notify the district inspector of his intention to do so and shall furnish him with such particulars as may be prescribed.

(2) A district inspector who has been notified under subsection (1) by the owner of an emplacement area may direct the owner to carry out such steps as may be specified for the purpose of making the area secure.

20 (3) The owner of an emplacement area established before the commencement of this Division which has not been in use for a period (commencing before or after that commencement) in excess of 6 months, or to which a notice under subsection (4) applies, shall not use that area without the consent of the district inspector.

25 (4) The district inspector may, by notice served on the owner of an emplacement area established before the commencement of this Division which has not been in use for a period (commencing before or after that commencement) in excess of 6 months, declare that area to be no longer in use.



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(5) The Minister may, by notice served on the owner of an emplacement area established before the commencement of this Division, direct that that area be no longer used after a date specified in the notice and that the owner take such steps as may be specified for the purpose of making the area  
5 secure.

**Construction and use of emplacement areas.**

**129.** (1) This section applies to emplacement areas whether established before or after the commencement of this Division.

(2) An emplacement area shall—

- 10 (a) be constructed, or the construction thereof shall be continued, as the case may be, in accordance with sound engineering practice;
- (b) be compatible with the environment; and
- (c) be kept secure.

(3) The owner of an emplacement area shall take such steps as may  
15 be necessary to ensure that he is at all times in possession of all information relevant to the performance of his duties under this section.

(4) The district inspector may, by notice served on the owner of an emplacement area, require the owner, whether the emplacement area is in use or not, to carry out such tests relating to the safety and security of  
20 the emplacement area as he may specify in the notice.

(5) The owner of an emplacement area shall furnish to the district inspector the results of any tests carried out in compliance with subsection (4).

(6) The district inspector may, by notice served on the owner of  
25 an emplacement area which is in use, require him to furnish plans of the emplacement area and plans of future dumping operations.

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**Tipping rules.**

130. (1) The owner of an emplacement area which is in use shall make rules (to be known as "tipping rules"), not inconsistent with this Act or any directions which the Minister or the district inspector may make or give 5 under this Act, which shall specify the manner in which reject is to be deposited on or in the emplacement area and the nature of reject to be so deposited.

(2) The provisions of sections 105, 106, 107, 109 and 110 apply to rules made under subsection (1) in the same way as they apply to rules 10 in respect of mines under Division 7.

(3) For the purposes of subsection (2), a reference in sections 105, 106, 107, 109 and 110 to the manager of a mine shall be deemed to be a reference to the owner of an emplacement area.

**Appeal to court against Minister's decision.**

15 131. Where a person is dissatisfied with any decision of, or any direction given by, the Minister under this Division, he may, within such period as may be prescribed, appeal to a court against that decision or direction.

**Objections to Chief Inspector against inspector's requirements.**

20 132. (1) Where the owner of an emplacement area objects to complying with any notice given by a district inspector pursuant to this Division (other than a notice for the purposes of section 129 (6)), he may, within 21 days of the service of the notice, object to the Chief Inspector in writing giving the reasons for his objection.

25 (2) On receipt of an objection referred to in subsection (1), the Chief Inspector may revoke, confirm or amend any notice given or requirement made therein by the district inspector.

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**Date of effect of decisions, etc.**

133. Where there is a right of appeal or objection against a decision or notice under this Division, the decision or notice shall take effect—

- 5 (a) where no appeal or objection is lodged within the period prescribed—  
—from the expiration of that period; or
- (b) where an appeal or objection is lodged and the decision or notice is not revoked—from the date of the final decision made on that appeal or objection,

and, if varied or amended on appeal or objection, shall take effect as varied 10 or amended.

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**PART V.****OPERATION OF MINES.****DIVISION 1.—*Notice of operations, etc.*****Notice of commencement, discontinuance, etc., of operations.**

15 134. (1) The owner of a mine shall, in respect of the mine, give notice in writing to the district inspector of—

- (a) the commencement of operations for the purposes of opening of an underground mine or a seam therein;
- (b) the abandonment of an underground mine or a seam therein;
- 20 (c) the discontinuance of operations at an underground mine or in a seam therein;
- (d) the fact that an underground mine or a seam therein has not been worked for a period of 2 months;
- (e) the resumption of the working of an underground mine or a seam 25 therein which has not been worked for a period of 2 months;
- (f) the discontinuance of the use of a shaft or outlet of an underground mine;

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- (g) the resumption of the use of a shaft or outlet of an underground mine;
- (h) the commencement of operations for the purposes of opening an open cut mine or a seam therein;
- 5 (i) the abandonment of an open cut mine;
- (j) the discontinuance of operations at an open cut mine;
- (k) the fact that an open cut mine has not been worked for a period of 2 months; and
- 10 (l) the resumption of the working of an open cut mine or a seam therein which has not been worked for a period of 2 months.

(2) A notice under subsection (1) in respect of an event specified in paragraph (a)–(c), (e)–(j) or (l) of that subsection shall be given within 14 days of the happening of the event.

15 (3) A notice under subsection (1) in respect of a fact specified in paragraph (d) or (k) of that subsection shall be given within 14 days after the expiration of the period of 2 months referred to in that paragraph in relation to that fact.

**Drilling of boreholes.**

20 **135. (1)** Subject to subsection (4), any person who, at a mine, proposes to drill a borehole, or extend an existing borehole, for the purpose of proving coal shall, before commencing work, notify the Chief Inspector of his intention to do so and furnish to him particulars of the location of the borehole.

(2) A person referred to in subsection (1) shall furnish such additional particulars in relation to a borehole as the Chief Inspector may  
25 require.

(3) A requirement under subsection (2) may be made either before or after the commencement of the work to which the requirement relates.

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(4) This section does not apply to boreholes put down to determine—

(a) the extent of overburden; or

(b) the thickness and quality of coal,

5 for the purpose of open cut workings where the occurrence of coal has previously been proved.

**Cores and samples.**

136. (1) Subject to subsection (6), where a person obtains a core in the course of drilling any borehole to which section 135 applies, the core (except  
10 any material used for analysis) and any samples obtained therefrom shall be labelled and properly stored by the person on the completion of the borehole.

(2) Cores and samples labelled and stored as required under subsection (1) shall at all times be available for examination by an inspector or an officer of the Department of Mineral Resources.

15 (3) Portions of cores or samples labelled and stored as required under subsection (1) may be taken by an inspector or officer referred to in subsection (2) for the purpose of analysis or other examination.

(4) Any information obtained by any person as the result of any action taken under subsection (2) or (3) shall not be made public without  
20 the consent of the person carrying out the drilling from which the cores or samples were obtained unless the Chief Inspector directs otherwise.

(5) If a person who has obtained cores or samples in the course of drilling any borehole to which section 135 applies proposes to dispose of the cores or samples—

25 (a) he shall advise the Chief Inspector in writing; and

(b) the Chief Inspector may take possession of the cores and samples within 28 days after being given that notice.

(6) This section does not apply to boreholes or sections of boreholes sunk in surface gravel or alluvial ground.

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**Backfilling or sealing of boreholes.**

137. Where any borehole to which section 135 applies is—

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- (a) drilled from the surface or from underground—it shall, upon completion, be completely backfilled with material of an approved type unless otherwise directed by the Chief Inspector; or
  - (b) drilled from under water—it shall, upon completion, be sealed completely in the presence of an officer authorised by the Chief Inspector.

DIVISION 2.—*Methods or systems of working mines.*

**10 Bord and pillar system to be used in underground mines.**

138. (1) No method of mining other than the bord and pillar system shall be used in an underground mine except with the approval of the Minister given on the recommendation of the Chief Inspector and subject to such conditions as he may impose.

15 (2) Where the bord and pillar system of mining is used—

- 20
- (a) the pillars shall be of such dimensions as may be prescribed;
  - (b) the width of the roadways, bords, cut-throughs, headings and pillar splits shall not exceed the prescribed width;
  - (c) the Chief Inspector may approve or direct a variation in the dimensions of pillars;
  - (d) the Chief Inspector may approve or direct a variation in the width of the roadways, bords, cut-throughs, headings or pillar splits; and
  - 25 (e) pillars shall not be removed except with the approval in writing of the Minister and subject to such conditions as he may impose.

(3) For the purposes of this section, a pillar shall be deemed to have been removed if its dimensions are reduced to less than—

- (a) the prescribed dimensions; or

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- (b) such other dimensions as the Chief Inspector has approved or directed pursuant to subsection (2) (c).

**Barriers and protective pillars.**

139. (1) The owner of a mine shall not mine or cause to be mined any 5 seam of coal in the mine without leaving a barrier of the specified width—

- (a) against the external boundaries of the colliery holding in which the mine is situated;
- (b) against any outcrop of the seam; and
- 10 (c) between any underground workings and any open cut working situated within the colliery holding in which the mine is situated.

(2) For the purpose of subsection (1), the specified width is 20 metres or such other distance as the Minister may specify in a direction given to the owner, the superintendent or the manager of the mine.

(3) The Minister, on the recommendation of the Chief Inspector, 15 may direct the owner, the superintendent or the manager of a mine to—

- (a) leave in the mine a barrier of such width as is specified in the direction against the mean high water mark of tidal waters; and
- 20 (b) leave in the mine a protective pillar of such dimensions as are specified in the direction against surface improvements or features, whether natural or artificial, including mine workings, whether discontinued or otherwise.

(4) In making a direction under subsection (2) or (3), the Minister—

- 25 (a) may fix the width of a barrier in respect of any seam or portion of a seam within a mine and specified in the direction or in respect of all the seams within a mine or all seams within a mine other than those so specified; and
- 30 (b) shall so fix the width of a barrier in respect of any seam so that a barrier of not less than 40 metres shall be maintained between workings of adjacent mines.

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**(5)** Where any workings in a mine encroach on any barrier or protective pillar required to be provided pursuant to—

(a) this section; or

**5** (b) any conditions contained in any lease granted under the Coal Mining Act, 1973,

the Minister may, if the Chief Inspector recommends that it is necessary to do so in order to ensure the safety of the employees in the mine or in any mine adjoining the mine, direct the owner, the superintendent or the manager of the mine to carry out such works as the Minister thinks fit  
**10** within the time specified in the direction.

**(6)** The Minister may, on the recommendation of the Chief Inspector, grant approval, subject to such conditions as he considers necessary, to the manager of a mine to mine any barrier or protective pillar provided pursuant to this section.

**15 Seams liable to spontaneous combustion.**

**140. (1)** Where a seam in any mine or part thereof gives, or has given, evidence of being liable to spontaneous combustion, no person shall mine that seam in that mine except with the approval of the Chief Inspector and subject to such conditions as he considers necessary.

**20 (2)** Where, in a mine or part thereof, a seam which the Chief Inspector believes may be liable to spontaneous combustion is to be mined, he may cause to be served on the owner, the superintendent or the manager of the mine a notice specifying conditions under which that seam may be mined in that mine or part thereof.

**25 (3)** Where a mine or part thereof has been sealed off on account of self-heating or a fire—

**30** (a) the mine or part thereof shall not be re-entered or any seal broken unless notice of intention to do so has been given in writing to the district inspector and a check inspector at least 48 hours before the re-entry or breaking is effected; and



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(b) in a case where part of a mine has been sealed off, any re-entry to that part of the mine shall be made at a time when there is a minimum number of persons in the mine.

(4) Where the Chief Inspector refuses to give his approval under subsection (1) in respect of a mine or the owner, the superintendent or the manager of the mine is dissatisfied with any conditions imposed under that subsection or subsection (2), the owner, the superintendent or the manager may appeal to a court against the refusal or the imposition of the conditions.

**Methane drainage system.**

10 141. (1) Where the Chief Inspector is of the opinion that it is desirable for the safer operation of a mine, he may, by notice in writing served on the manager of the mine, direct the establishment of a methane drainage system at the mine.

(2) A methane drainage system directed to be established in a  
15 notice served under subsection (1) shall comply with such conditions as to its design and operation as the Minister may specify in the notice.

(3) The Chief Inspector may by notice in writing served on the manager of a mine direct that safety precautions specified in the notice be taken in the disposal of methane recovered from the mine by means of a  
20 methane drainage system.

(4) Where the manager of a mine objects to complying with any direction under this section or any conditions imposed by the Chief Inspector, he may within 14 days of the service of the notice under subsection (1) or (3), as the case may be, appeal to a court against the direction or the  
25 imposition of the conditions.

**DIVISION 3.—Prospecting operations.****Interpretation.**

142. In this Division—

30 “drilling operations” means any drilling operations carried out in the course of searching for coal, and includes the preparation and restoration of drill sites;

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“prospecting area” means any land on which prospecting operations are carried on and which is subject to an authorisation or a concession granted under the Coal Mining Act, 1973, other than land on which is situated a mine;

5 “registered holder”, in relation to a prospecting area, means the person registered as the holder of an authorisation or concession granted under the Coal Mining Act, 1973, in respect of that area.

**Notification of commencement of drilling operations.**

10 **143.** The registered holder of a prospecting area shall, not less than 7 days before the commencement of drilling operations on the area, notify the district inspector in writing of the proposed date of commencement of the drilling operations and advise the district inspector of—

- (a) particulars of the operations to be carried out;
- (b) the location of the prospecting operations; and
- 15 (c) the name of the person appointed as supervisor of the prospecting area in accordance with section 144.

**Supervisors of prospecting areas.**

20 **144. (1)** Subject to subsection (2), the registered holder of a prospecting area shall appoint a competent person to be supervisor of the prospecting area.

(2) A registered holder of a prospecting area who is an individual may nominate himself as supervisor of the prospecting area instead of appointing a person under subsection (1).

25 (3) The supervisor of a prospecting area shall, for the purposes of this Act, have full charge and control of all persons employed, and of all prospecting operations, in the prospecting area and shall enforce the observance, by persons employed in the prospecting area, of this Act, the regulations, the rules and any schemes made thereunder.

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**Application of the provisions of this Act or the regulations to prospecting areas.**

**145.** The Governor may make regulations providing that such of the provisions of this Act or the regulations—

5 (a) as may be prescribed; or

(b) as may be prescribed with such modifications as may be prescribed, shall apply to and in respect of prospecting areas in the same way, subject to such modifications as may be prescribed, as they apply to mines.

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**PART VI.****10 REGULATION OF TOURIST AND EDUCATIONAL ACTIVITIES IN MINES.****Interpretation.**

**146.** In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“mine” means—

15 (a) a mine as defined in section 5 which is not the subject of a coal lease under the Coal Mining Act, 1973; or

(b) an abandoned mine which was formerly a mine as defined in section 5 and which is not the subject of such a lease;

20 “owner”, in relation to an abandoned mine, means the occupier of the land on which the abandoned mine is situated;

“permit” means a permit which has been issued under section 148 and which has not been revoked under section 149.

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**Tourist activities in mines or use of mines for educational purposes not allowed without a permit.**

147. 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 are, or the use of the mine principally for educational purposes is, authorised by a permit issued to that or any previous owner of the mine; and

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

Penalty: \$500.

**Issue of permits.**

148. (1) The Minister may, upon application being made to him in writing, issue a permit to the owner of a mine which—

15 (a) authorises tourist activities to be conducted in or about the mine; or

(b) authorises the mine to be used principally for educational purposes,

subject to such conditions as the Minister may specify in the permit.

20 (2) A permit shall not be issued under this section in respect of a mine unless the Minister is satisfied that all necessary precautions will be taken to protect the safety or health of persons entering the mine.

**Revocation or variation of permits.**

149. (1) The Minister may—

25 (a) revoke a permit where a condition to which the permit is subject is breached or where the Minister is satisfied that persons cannot enter the mine to which the permit relates without risk to their safety or health; or

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- (b) from time to time attach conditions or additional conditions to the permit or vary the conditions to which a permit is subject.
- (2) A variation may be made under subsection (1) (b) by way of addition, amendment or deletion of conditions.
- 5 (3) A revocation of a permit, a variation of conditions to which a permit is subject or the attachment of conditions or additional conditions to a permit does not take effect until notice of the revocation, variation or attachment is served on the owner of the mine to which the permit relates.

## PART VII.

10

## LEGAL PROVISIONS.

DIVISION 1.—*Court of Coal Mines Regulation.***Constitution of a Court of Coal Mines Regulation.**

150. (1) The Governor may appoint a Judge of the District Court to sit as a Court of Coal Mines Regulation.
- 15 (2) Several Judges of the District Court may be appointed under subsection (1) to sit as several Courts of Coal Mines Regulation.
- (3) Persons performing functions as officers of the District Court shall perform similar functions at, or in connection with, a Court of Coal Mines Regulation when required to do so by such a court.

20 **Assessors.**

151. (1) A court, when exercising the jurisdiction specified in section 152 (1) (a) or (d), shall sit with an assessor or 2 or more assessors appointed in accordance with the rules of court.
- (2) An assessor sitting with a court as referred to in subsection (1) shall have the power to advise the court but not to adjudicate on any matter before the court.
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(3) A court has the right to consult, either collectively or individually and either in public or in private, with assessors sitting with it.

(4) Fees payable to assessors under the rules of court shall be paid out of money provided by Parliament.

### 5 Jurisdiction of court.

152. (1) A court shall, in addition to any other function conferred or imposed upon it by or under this or any other Act, have power to hear and determine—

- 10 (a) matters arising from statements filed with the court under section 26;
- (b) in a summary manner, proceedings for offences against Division 2 of Part IV;
- (c) applications for orders made under section 68; and
- (d) appeals made to the court under this Act,
- 15 and to carry out, and make determinations in respect of, investigations under section 95.

(2) A court may make such orders as are necessary to give effect to its determinations.

20 (3) An offence against Division 2 of Part IV shall be dealt with by a court in accordance with the provisions of the Supreme Court (Summary Jurisdiction) Act, 1967, as if references in that Act to the Supreme Court were references to a court and references in that Act to rules were references to rules made under section 155.

25 (4) A court, when exercising the jurisdiction specified in subsection (1) (d), shall have power to revoke, vary or confirm any decision or direction appealed against.

(5) Subject to section 154, a determination or an order of a court shall be final and conclusive and shall not be liable to appeal or review.

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**Proceedings of court.**

153. (1) A court carrying out an investigation under section 95 may be assisted by a barrister or solicitor appointed by the court for that purpose.

(2) For the purposes of exercising its jurisdiction under this Act, a court shall have, in relation to summoning parties and compelling the attendance of witnesses and the production of documents, the same powers as the District Court.

(3) Subject to this Act, any person affected or liable to be affected by proceedings before a court may appear before, and shall be entitled to be heard by, the court.

(4) The Minister, the Chief Inspector, an inspector and an organisation or association representative of mining employers or employees may appear before, and shall be entitled to be heard by, a court dealing with a matter under this Act.

15 (5) The awarding of costs in any proceedings before a court shall be in the discretion of the court.

(6) The decision of a court in any proceedings under this Act shall be delivered in open court.

**Appeals from court.**

20 154. (1) A party to any proceedings before a court, other than proceedings arising under Division 2 of Part IV or section 95, may, on a question of law—

(a) appeal to the Supreme Court against a decision given in those proceedings; or

25 (b) with the leave of the court, appeal to the Supreme Court during those proceedings.

(2) A person convicted by a court of an offence against Division 2 of Part IV may appeal to the Court of Criminal Appeal pursuant to the Criminal Appeal Act, 1912.

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(3) In any proceedings under Division 2 of Part IV, the Crown may, pursuant to the Criminal Appeal Act, 1912, submit any question of law arising at or in reference to the proceedings to the Court of Criminal Appeal.

(4) A party to any proceedings under section 68 may appeal to the  
5 Supreme Court against a decision given by a court in those proceedings.

**Rules of court.**

155. (1) The Judges of the District Court or any 3 of them may make rules regulating the procedure and practice of Courts of Coal Mines Regulation.

10 (2) Rules made under subsection (1) shall make provisions for or with respect to—

(a) the appointment as assessors of persons having practical experience in coal mining in New South Wales;

15 (b) the nomination, by persons interested in proceedings before a court, of persons to be appointed as assessors;

(c) the number of persons to be appointed assessors in any proceedings; and

(d) the fees to be paid to persons appointed as assessors,  
for the purposes of section 151 (1).

20 (3) A rule may be made so as to apply differently according to such factors as may be specified in the rule.

(4) A rule shall—

(a) be published in the Gazette;

25 (b) take effect on and from the date of publication or a later date specified in the rule; and

(c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.



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(5) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a rule has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

5 (6) For the purposes of subsections (4) and (5), sitting days shall be counted, whether or not they occur during the same session.

(7) Judicial notice shall be taken—

(a) of a rule made or purporting to have been made under this section and published in the Gazette; and

10 (b) of the date of its publication.

(8) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule have been complied with and performed.

DIVISION 2.—*Offences and proceedings for offences.*

**15 Where proceedings taken.**

156. (1) Proceedings for an offence against this Act, Division 2 of Part IV excepted, the regulations, the rules or a scheme shall be disposed of summarily before a court of petty sessions presided over by a stipendiary magistrate.

20 (2) Proceedings for an offence against Division 2 of Part IV shall be disposed of summarily before a Court of Coal Mines Regulation.

**Time for taking proceedings.**

157. (1) Subject to subsections (2) and (3), an information in respect of an offence against this Act, the regulations, the rules or a scheme shall be laid 25 within 6 months after the time when the offence was alleged to be committed.

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(2) Where, in respect of an accident or other occurrence in a mine—

- (a) an inspector makes a special report under section 94;
- (b) a court makes a report under section 98; or
- 5 (c) a coroner's inquest is held,

and it appears from the report or the proceedings at the inquest that an offence has been committed against this Act, the regulations, the rules or a scheme, an information in respect of the offence may be laid within 6 months after the time when the report was made or the inquest was concluded, as  
10 the case may be.

(3) An information in respect of an offence against section 62 (e), 138, 139 or 140 shall be laid within 2 years after the time when the offence was alleged to be committed.

#### **Continuing offences.**

15 **158.** Where an offence is committed against this Act, the regulations, the rules or a scheme by reason of a failure to give a notice, enter a report or do any other thing at a time or within a period specified in this Act, the regulations, the rules or a scheme or in an order or direction made or given thereunder, the offence shall be deemed to continue until the notice is given,  
20 the report is entered or the thing is done, as the case may be.

#### **Evidence.**

**159.** In any prosecution or legal proceedings instituted by an inspector, any writing purporting to be a copy of—

- (a) an instruction or delegation;
- 25 (b) a direction or notice;
- (c) a rule or scheme;
- (d) a certificate of competency;
- (e) an appointment of any official or person;

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- (f) an exemption from compliance with any requirement of this Act, the regulations, the rules or a scheme; or
- (g) an approval granted under this Act, and purporting to be certified by a prescribed officer as a true copy thereof  
5 shall be prima facie evidence—
- (h) of the terms of the instruction, delegation, direction, notice, rule, scheme, certificate of competency, appointment, exemption or approval; and
- (i) that it was duly granted or given and duly issued.

**10 Offences against Act, etc.****160.** A person who—

- 15 (a) being employed at a mine, wilfully interferes with any official of the mine or other person exercising his functions under this Act, the regulations, the rules or a scheme or any directions, or conditions of exemptions or approvals, given thereunder;
- (b) negligently or wilfully does at a mine anything likely to endanger the safety of the mine or the safety or health of persons at the mine or negligently or wilfully omits to do at a mine anything  
20 necessary for ensuring the safety of the mine or the safety or health of persons at the mine;
- (c) not being an official of a mine, without permission granted by such an official, removes, alters, or tampers with anything provided at the mine for the purpose of securing the safety or health of persons employed at the mine;
- 25 (d) being employed at a mine, contravenes any direction given to him by or on behalf of the owner or the manager of the mine for regulating the conduct either of all persons employed at the mine or of any class of person so employed to which that person belongs, being a direction given for the purpose of—
  - 30 (i) securing compliance with this Act, the regulations, the rules or a scheme having effect with respect to the mine; or
  - (ii) securing the safety or health of that person or any other person employed at the mine;

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- (e) wilfully makes a false entry in any register, book, notice or other document required by or under this Act to be kept, served or given, or, with intent to deceive, makes use of any such entry which he knows to be false;
- 5 (f) in purported compliance with a requirement imposed by or under this Act to furnish any returns, statistics or other information or to inform a person of the substance of any instructions, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- 10 (g) discloses any returns, statistics or other information in contravention of this Act or the regulations;
- (h) falsely pretends to be an inspector or check inspector;
- (i) with intent to deceive, forges or uses or lends to, or allows to be used by, another person a certificate of competency granted under  
15 this Act or makes or has in his possession a document so closely resembling any such certificate as to be calculated to deceive;
- (j) for the purpose of obtaining for himself or another person—
- 20 (i) the grant of any certificate of competency or the issue of a duplicate thereof or the restoration of any such certificate;  
or
- (ii) employment as a manager or under-manager of a mine or as a surveyor for a mine, or employment in any office at a mine, the appointment to which is required by virtue of this Act to be made by the manager of the mine,
- 25 makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or produces, furnishes, sends or otherwise makes use of a document which is false in a material particular;
- 30 (k) without reasonable excuse, removes, injures or defaces a notice which is for the time being posted at a mine in pursuance of any provisions of this Act, the regulations, the rules or a scheme;
- (l) contravenes or fails to comply with any provision of this Act, the regulations, the rules or a scheme;
- 35 (m) fails to exercise any function conferred or imposed on him by or under a provision of this Act, the regulations, the rules or a scheme;

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- (n) fails to comply with a direction given to him by the Minister or by an inspector in accordance with a provision of this Act, the regulations, the rules or a scheme; or
- 5 (o) fails to comply with a condition imposed on him in accordance with a provision of this Act, the regulations, the rules or a scheme,
- shall be guilty of an offence against this Act.

**Liability of owners, etc., where offence committed.**

10 **161. (1)** Subject to subsection (2), where, in relation to a mine, a person commits an offence against this Act, the owner, superintendent, assistant superintendent, manager, deputy manager, under-manager in charge and under-managers of the mine also shall each be guilty of an offence against this Act.

15 **(2)** A person shall not, in relation to a mine, be guilty of an offence under subsection (1) in respect of an offence against this Act committed by another person (in this subsection referred to as "the offender") where—

- (a) the offender is the owner of the mine; or
- (b) that person is an official listed in an order of seniority in Part A or Part B of Schedule 1 and the offender is senior, according to that order of seniority, to that person.

20 **(3)** Proceedings for an offence under subsection (1) shall be instituted only with the consent of the Minister given in writing.

**(4)** A person may be proceeded against and convicted under subsection (1) in respect of an offence committed by another person whether or not that other person has been proceeded against for, or been convicted of, 25 that offence.

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**Liability of directors, etc., of corporations.**

**162. (1)** Where a corporation commits an offence against this Act, each director of the corporation, and each officer concerned with the management of the corporation, shall, if it is proved that—

- 5 (a) the offence was committed with his consent or connivance; or  
(b) the commission of the offence was attributable to any neglect on his part,

be guilty of the same offence.

10 (2) A person may be proceeded against and convicted under sub-section (1) in respect of an offence committed by a corporation whether or not the corporation has been proceeded against for, or been convicted of, the offence.

**Aiding, abetting, etc.**

15 **163.** A person who aids, abets, counsels, induces or procures, or consents to or connives at, the commission of an offence against this Act by another person shall be guilty of an offence against this Act.

**Defences.**

20 **164. (1)** It shall be a defence to any proceedings for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the person proceeded against to prove that he took all reasonable means to prevent the commission of the other offence by publishing, and, to the best of his power, enforcing the observance of, the provisions of this Act, the regulations, the rules and any scheme and any directions, or conditions of exemptions or approvals, given thereunder.

25 (2) It shall be a defence to any proceedings against the owner of a mine for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the owner to prove that—

- 30 (a) he was not in the habit of taking, and did not in respect of the matters in question take, any part in the management of the mine;

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(2) The Minister or the Chief Inspector shall not delegate under subsection (1) the exercise of his power of delegation.

(3) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(4) A function the exercise of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

10 (5) Notwithstanding any delegation made by the Minister or the Chief Inspector under this section, the Minister or the Chief Inspector, as the case may be, may continue to exercise all or any of the functions delegated.

15 (6) Any act or thing done or suffered by a delegate while exercising a function delegated to him under this section has the same force and effect as if the act or thing had been done or suffered by the Minister or the Chief Inspector, as the case may be.

**Hours of working of mine employees.**

168. (1) For the purposes of this section—

- 20 (a) an “emergency” means any happening or occurrence at a mine which has, in the opinion of the manager of the mine, put the mine or the health or safety of persons employed at the mine in danger; and
- 25 (b) a person shall be deemed to be on duty at a mine if he is present at the mine and is required by the manager of the mine to exercise some function at the mine.

(2) No person employed at a mine shall, except in an emergency, remain on duty at the mine for a continuous period in excess of 18 hours.

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(3) No person employed at a mine who has been on duty at the mine for a period in excess of 18 hours shall, except in an emergency, recommence duty at the mine until a period of 10 hours has elapsed since he was last on duty at the mine.

5 (4) The manager of a mine shall make an entry, in a book to be kept at the mine for that purpose, of every occasion on which a person—

(a) remains on duty at the mine in excess of the period specified in subsection (2); or

10 (b) commences duty at the mine before the period specified in subsection (3) has elapsed,

and shall specify in the book in relation to that entry the nature of the emergency.

**Service of notices.**

15 **169. (1)** A notice required or authorised to be given to, or served on, a person by or under this Act shall be in writing and shall be given to, or served on, that person—

(a) personally or by post; or

(b) if a manner of giving or serving the notice is prescribed, in the manner prescribed.

20 **(2)** A notice required or authorised to be given to, or served on, an owner of a mine by or under this Act shall be deemed to have been so given or served if it is given to, or served on, the superintendent or the manager of the mine.

**Appointments to be in writing.**

25 **170. (1)** Any appointment of a person for the purposes of this Act or the regulations shall be in writing unless a contrary intention appears in the provision authorising or requiring the appointment.

30 **(2)** An instrument of appointment of a mining official at a mine or a copy thereof shall be kept by the owner of the mine at the office of the mine during the currency of the appointment and for 12 months thereafter.



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**Records, returns and information.**

171. (1) Every book or form which, in pursuance of this Act or the regulations, is required to be kept or provided by the owner of a mine for the purpose of the entry therein of any report, record or other item of information shall, if there is an approved form, be in or to the effect of that form.

(2) Every entry made in a book or form required to be kept or provided by the owner of a mine for the purpose referred to in subsection (1), or a copy of that entry, shall be preserved by the owner until the expiration of 1 year after the date on which the entry was made or, if some other period is prescribed, until the expiration of that period.

(3) A book or form required to be kept or provided by the owner of a mine for the purpose referred to in subsection (1) shall be kept by the owner at the office at the mine or at such other place as may be approved by the district inspector.

(4) Every entry required to be made in a book or form for the purpose referred to in subsection (1) which is required by or under this Act to be countersigned may be countersigned on the duplicate copy of the entry.

**20 Continuation of appointments, etc., made by owners or officials of mines.**

172. Any appointment, delegation, rule, scheme, direction or instruction made or given by a person who is the owner or an official of a mine shall continue in force after that person ceases to be the owner or official, as the case may be, and may be altered from time to time or revoked as if it had been made or given by his successor.

**Finance.**

173. (1) Any expenses incurred under or by virtue of this Act by the Minister shall be defrayed out of money provided by Parliament.

(2) Any sums received under or by virtue of this Act by the Minister shall be paid into the Consolidated Revenue Fund.

*Coal Mines Regulation.***Regulations.**

174. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, but without limiting the generality of subsection (1), the regulations may include provision for or with respect to—

- (a) the safety, health, convenience and conduct of persons at mines;
- (b) the care and maintenance of animals used at mines;
- 10 (c) prohibiting the use of specified materials or classes or types of material underground in mines unless such materials, classes or types are approved;
- (d) the duties and discipline of persons employed in or about mines;
- (e) the design, construction, installation, maintenance, use, testing, 15 repair, adjustment, alteration and examination of machinery or apparatus used at mines (in so far as those matters affect the safety or health of persons at mines);
- (f) the design, use, construction and maintenance of—
  - (i) mechanical vehicles and locomotives at mines;
  - 20 (ii) mechanical equipment at mines;
  - (iii) buildings and structures at mines;
  - (iv) equipment used in connection with shafts and roadways in mines;
  - (v) belt conveyors at mines; and
  - 25 (vi) electrical equipment at mines,in so far as those things affect the safety or health of persons at mines;
- (g) prohibiting the installation at mines of machinery or apparatus not constructed so as to comply with the regulations;
- 30 (h) the construction, design, material and strength of foundations to which any machinery or apparatus at mines is or is to be anchored;

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- (i) the provision of security measures at mines to prevent access to shafts, drifts and surface buildings when unattended;
- (j) the provision of blast doors or other devices capable of assisting in the sealing off of mines;
- 5 (k) inspections for the presence of noxious or flammable gas, spontaneous combustion or heating or for the absence of oxygen, including provisions for or with respect to the installation in mines or the supply to persons employed in mines of devices, systems or equipment for the detection, monitoring or testing of
- 10 (l) flammable or noxious gases or for detecting or monitoring the absence of oxygen;
- (l) the support of the roof and sides of working places and roadways in mines and the withdrawal of that support;
- (m) the maintenance and inspection of shafts and roadways in mines;
- 15 (n) working practices employed at mines in so far as those practices affect the safety or health of persons at mines;
- (o) prohibiting the working of mines affected by dust or prescribing the conditions under which any such mines shall be worked;
- 20 (p) requiring the use in mines of prescribed apparatus in relation to dust;
- (q) requiring steps to be taken and working practices to be adopted to minimise dust in mines;
- (r) preventing the accumulation in mines of flammable dust;
- 25 (s) the prevention, detection and combating of fires at, and spontaneous heatings occurring in, mines including provisions for or with respect to—
- (i) the establishment and maintenance at mines of such organisations of persons as may be necessary for the prevention, detection and combating of fires and spontaneous heatings and the training of the members of any such
- 30 organisations; and
- (ii) the provision and maintenance at mines of suitable and sufficient apparatus for the prevention, detection and combating of fires and spontaneous heatings;

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- (t) the design, installation, operation and maintenance of methane drainage systems in mines and the treatment, storage and disposal of methane;
- 5 (u) the requirements to be observed and the precautions to be taken in mining—
- (i) under the ocean, a river, a lake, an estuary, a reservoir or an aquifer; and
- 10 (ii) near any place or strata which is likely to contain a dangerous accumulation of gas or water or material that flows when wet;
- (v) the control of the supply, storage and use of blasting materials, blasting devices and flammable materials at mines;
- (w) requiring the surveying, and the preparation of plans, of barriers and protective pillars in mines and prescribing the time in which
- 15 any such surveys or plans shall be made or prepared;
- (x) the charging of fees for the testing of machinery, vehicles, equipment, apparatus, material or any other articles for approval for the purposes of this Act or the regulations;
- (y) the waiver, remission or refund of fees charged under the
- 20 regulations;
- (z) the approval of any equipment, apparatus, material or thing before it may be used in, installed in or taken into a mine or connected to, or used with, any other equipment, apparatus, material or thing used or installed in a mine;
- 25 (aa) the issue of certificates of examination in respect of any equipment, apparatus, material or thing proposed to be used in, installed in or taken into a mine;
- (bb) the preparation and the putting into effect of rules and schemes referred to in Divisions 7 and 8 of Part IV;
- 30 (cc) the generation, storage, transformation, transmission and use of electricity at mines;
- (dd) the use, construction, installation, examination, repair, maintenance, alteration, adjustment and testing of electrical apparatus and electric cables at mines;

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- (ee) the circumstances in which the supply of electricity into the underground parts of a mine or part of a mine or any apparatus in a mine shall be cut off and the type, nature and design of apparatus to be used to cut off the supply of electricity;
- 5 (ff) requiring the installation in mines of such electrical apparatus as may be prescribed and the type, nature and design of any such apparatus;
- (gg) the circumstances in which the supply of electricity shall not be connected to the underground parts of a mine or part of a mine and the type, nature and design of any apparatus to be used to prevent the supply of electricity being connected;
- 10 (hh) requiring communication systems to be provided in mines;
- (ii) the supply and maintenance of first aid equipment, facilities and locations in mines;
- 15 (jj) the employment in mines of persons trained to administer first aid to persons injured;
- (kk) the conveyance of persons injured within a mine from the mine to their homes or hospital;
- (ll) the provision, location, care and maintenance of sanitary conveniences in mines;
- 20 (mm) the control of rats, mice, other vermin and insects in and about mines;
- (nn) the provision, design, location, care and maintenance of bath and change houses at mines;
- 25 (oo) the supply of drinking water at mines;
- (pp) the provision of facilities for the taking of meals both on the surface and underground at mines;
- (qq) the supply and maintenance of safety equipment for the use of persons employed at mines;
- 30 (rr) the transport of persons and materials in mines;
- (ss) requiring persons employed in mines who carry out functions which may affect the safety or health of other persons to hold such qualifications as may be prescribed;

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- (tt) the ventilation of mines;
- (uu) the environmental working conditions in mines;
- (vv) the control of the temperature and humidity in mines;
- 5 (ww) the use of safety lamps and appliances for detecting the presence of flammable gas in mines;
- (xx) lighting in or about mines;
- (yy) prohibiting the taking into mines of items which may affect the safety of persons therein;
- 10 (zz) searching persons, before entry into mines, for items referred to in paragraph (yy) and the confiscation and disposal of any such items found;
- (aaa) the fencing, enclosing or sealing of abandoned or discontinued mines or parts of mines;
- 15 (bbb) the making of rules, and the preparation of schemes, by managers of mines and the enforcing of the observance of those rules and schemes;
- (ccc) requiring the provision of notice boards at mines and prescribing—
  - 20 (i) the number, design, construction, size and location of notice boards;
  - (ii) matters that shall be displayed on notice boards; and
  - (iii) the size and type of print to be used in matter to be displayed on notice boards;
- (ddd) prescribing the type, size, contents and location of signs and notices to be displayed at mines;
- 25 (eee) the supply free of charge by the owners of mines to mine employees of abstracts of this Act and the regulations and any other approved books or information;
- 30 (fff) the preparation, maintenance, keeping and preservation of plans, sections and drawings of mines (including abandoned mines) and of workings in or about mines and of related documents, including provisions for or with respect to the preparation of those plans, sections and drawings by the Department and the recovery of the cost thereof;

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- (ggg) surveys of mines (including abandoned mines);
- 5 (hhh) the furnishing or production of copies of plans, sections and drawings of mines (including abandoned mines) and the furnishing of information relevant to the preparation of those plans, sections or drawings to the Department, to inspectors and to other persons;
- (iii) the supply of, or the furnishing of information from, copies of plans, sections or drawings filed with the Department to persons;
- 10 (jjj) prescribing, in respect of emplacement areas, engineering, environmental and safety standards, practices to be adopted in constructing and using emplacement areas and steps to be taken to keep emplacement areas secure;
- (kkk) regulating the number of persons who may be employed underground in a mine or part of a mine in prescribed circumstances;
- 15 (lll) regulating the employment of persons under the age of 16 years in or about mines and the employment of female persons underground at mines;
- (mmm) the provision, retention, maintenance and inspection of records at mines; and
- 20 (nnn) the functions of inspectors, including provisions for or with respect to the production of written authorities by inspectors and the warnings to be administered to persons in the course of an inspection.
- (3) A power under this Act to make regulations may be exercised—
- (a) in relation to—
- 25 (i) all cases to which the power extends;
- (ii) all cases to which the power extends subject to special exceptions; or
- (iii) in relation to any specified cases or classes of cases to which the power extends; and

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- (b) so as to make, as respects the cases in relation to which it is exercised—
- 5 (i) the same provision for all cases, a different provision for different cases or classes of cases, or different provisions as respects the same cases or classes of cases for different purposes of this Act; or
  - (ii) any provision referred to in subparagraph (i) either unconditionally or subject to any specified conditions.
- 10 (4) Without limiting the generality of subsection (3), the regulations may provide for the classification of underground mines by reference to the quantity of flammable gas found in the mines.
- (5) The Chief Inspector may, by instrument in writing served on the owner of a mine, order that any specified provision of the regulations, the rules or a scheme—
- 15 (a) shall not apply to or in respect of any person or class of person, or any act, matter or thing or class of act, matter or thing, specified in the order; or
- (b) shall not so apply in such circumstances or subject to such conditions as may be so specified.
- 20 (6) Subsection (5), to such extent as is prescribed, applies to an inspector in the same way as it applies to the Chief Inspector.
- (7) An order made under subsection (5) shall take effect according to its tenor on and from the time it is made or, where a later time is specified in the order, from the day so specified.
- 25 (8) The regulations may, in relation to any matter in respect of which they may be made—
- (a) authorise or require—
    - (i) inspectors;
    - (ii) owners or officials of mines; or
    - 30 (iii) persons employed in or about mines,
- to—
- (iv) do, or cause to be done, such acts as are specified in the regulations; or



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- (v) ensure that such acts as are specified in the regulations are done; or
- (b) require any such inspector, owner, official or person to—
- 5 (i) refrain from doing such acts as are specified in the regulations; or
- (ii) ensure that such acts as are specified in the regulations are not done.
- (9) A regulation may—
- 10 (a) apply differently according to such factors as are specified in the regulation;
- (b) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person;
- (c) adopt wholly, partly or by reference—
- 15 (i) any of the standards, rules, codes or specifications specified in the regulation that have been recommended or adopted by the British Standards Institution or the Standards Association of Australia (whether published before or after the day appointed and notified under section 2 (2)); or
- 20 (ii) any standards, rules, codes or specifications approved by the Minister and published in the Gazette (whether published before or after that day),
- relating to the matter with which the regulation deals together with
- 25 any additions or amendments thereto (whether made or published before or after that day) that are so specified;
- (d) exempt persons, or persons of a prescribed class, or any act, matter or thing, or any prescribed class of act, matter or thing, either absolutely or subject to conditions, from any provision of the regulation;
- 30 (e) require an application under this Act to be verified by a statutory declaration; and

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(f) impose a penalty not exceeding \$500 for any contravention of a regulation and in addition, where the contravention continues, a penalty not exceeding \$50 for every day the contravention continues.

5

**SCHEDULE 1.**

(Secs. 5 (1) (19), 33 (3).)

**MINING OFFICIALS AND ORDER OF SENIORITY OF MINING OFFICIALS.**

**PART A.**

**Mining officials and order of seniority—underground mines.**

10

Superintendent.

Assistant Superintendent.

Manager.

Deputy Manager.

Under-manager in charge.

15

Under-manager.

Deputy.

**PART B.**

**Mining officials and order of seniority—open cut mines.**

Superintendent.

20

Assistant Superintendent.

Manager.

Deputy Manager.

Examiner of an open cut mine.

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## SCHEDULE 2.

(Sec. 18.)

## PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD.

**Interpretation.**

5 1. In this Schedule—

“appointed member” means a member referred to in section 13 (2) (c)–(j);

“chairman” means the chairman of the Board;

“deputy chairman” means the deputy chairman of the Board;

“meeting” means a meeting of the Board;

10 “member” means a member of the Board.

**Chairman.**

2. (1) The chairman shall preside at all meetings at which he is present.

(2) The members shall elect a member as a deputy chairman of the Board.

(3) If the chairman is not present at any meeting at the time appointed for 15 holding the meeting, the deputy chairman shall act as chairman at that meeting.

(4) If the chairman and deputy chairman are not present at any meeting at the time appointed for holding the meeting, the members present at the meeting shall appoint one of their number to act as chairman at that meeting.

**Term of office of members.**

20 3. (1) The Minister shall specify in the instrument of appointment of an appointed member a term of office, not exceeding 3 years, in relation to the member.

(2) An appointed member shall cease to hold office—

(a) subject to subclause (3), on the expiration of his term of office;

(b) on attaining the age of 65 years;

25 (c) on his resignation; or

(d) on termination of his appointment under subclause (5) or under section 30 of the Interpretation Act, 1897,

whichever is the earliest.

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD—*continued.*

(3) An appointed member shall, if otherwise qualified, be eligible for re-appointment as a member.

5 (4) An appointed member may, by notice in writing given to the Minister, resign his office.

(5) In addition to his powers under section 30 of the Interpretation Act, 1897, the Minister may remove or suspend from office any or all of the members, whether or not he appoints instead a person as a member, or persons as members.

**10 Voting.**

4. (1) Questions arising at a meeting shall be determined by a majority of votes of the members present and voting.

(2) The chairman or member presiding at a meeting shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

**15 Remuneration of members.**

5. Each member is entitled to receive such remuneration (including travelling and subsistence allowances) for attending meetings and transacting business of the Board as the Minister may from time to time determine in respect of him.

**Procedure generally.**

20 6. The frequency of meetings, the procedures for the conduct of business at meetings and the number of members required to constitute a quorum at a meeting shall, subject to this Act, the regulations and any directions given by the Minister, be as determined by the Board.

**Regulations.**

25 7. The regulations may make provisions, not inconsistent with this Act, with respect to—

(a) the frequency of meetings;

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SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD—*continued.*

- (b) the procedures for the conduct of business at meetings;
- (c) the number of members required to constitute a quorum at a meeting; and
- 5 (d) the circumstances in which a member shall be deemed to have vacated his office.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

Coal Mines Regulation

SECTION 2

Interpretation: In this section, "Mines" means any mine or place in which coal is

(a) the provisions for the regulation of mines or places in

(b) the number of persons employed to conduct a mine or place, and

(c) the circumstances in which a mine or place shall be closed for

other

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*Coal Mines Regulation.*

- (b) he had made all the financial and other provisions necessary to enable the manager of the mine to carry out his duties; and
- (c) the other offence was committed without his knowledge, consent or connivance.

5           **(3)** It shall be a defence to any proceedings against a person for an offence against this Act for the person to prove that—

(a) it was not reasonably practicable for him to comply with—

(i) the provision of this Act, the regulations, the rules or the scheme;

10           (ii) the direction; or

(iii) the condition of an exemption or approval, the breach of which constituted the offence; or

15           (b) the commission of the offence was due to causes over which he had no control and against the happening of which it was impracticable for him to make provision.

**Proceedings by owners, etc.—advice of result.**

**165.** Where an owner, a superintendent or a manager of a mine institutes proceedings against a person employed at the mine for an offence against this Act, he shall, within 21 days after—

20           (a) completion of the proceedings; and

(b) where an appeal has been lodged, completion of the appeal proceedings,

give to the district inspector notice of the result of the proceedings or appeal proceedings, as the case may be.

**25 Penalties.**

**166. (1)** A person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed a penalty—

(a) except as provided in paragraph (b), not exceeding \$2,000; or

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*Coal Mines Regulation.*

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(b) in the case where the person is a corporation, not exceeding \$5,000.

(2) Where, in relation to an offence against this Act committed in respect of a mine, the court by which a person is convicted of the offence is of the opinion that the offence is one which was likely to, or did—

(a) endanger the safety of persons employed in the mine;

(b) cause serious personal injury to any such persons; or

(c) cause a dangerous accident,

and that the offence was committed wilfully by the personal act, personal default or personal negligence of the person convicted, the court may, instead of imposing a monetary penalty, sentence that person to a term of imprisonment not exceeding 12 months.

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PART VIII.

GENERAL.

15 **Delegation of functions by the Minister or the Chief Inspector.**

167. (1) Subject to this section—

(a) the Minister may, by instrument in writing, delegate to any person such of the functions conferred or imposed on him by or under this Act as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation; and

(b) the Chief Inspector may, by instrument in writing, delegate to the Deputy Chief Inspector or an inspector appointed under section 7 (1) (c)–(h) such of the functions conferred or imposed on him by or under this Act (not being functions delegated to him under paragraph (a)) as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.



**COAL MINES REGULATION ACT, 1982, No. 67**

**New South Wales**



ANNO TRICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 67, 1982.**

An Act for regulating coal mines (and oil shale and kerosene shale mines)  
and certain related places. [Assented to, 20th May, 1982.]

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See also Coal Mining (Amendment) Act, 1982; Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Act, 1982.

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*Coal Mines Regulation.*

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**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:—

**PART I.**

PRELIMINARY.

**Short title.**

1. This Act may be cited as the "Coal Mines Regulation Act, 1982".

**Commencement.**

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act 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.

**Arrangement.**

3. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–6.

PART II.—ADMINISTRATION—*ss.* 7–31.

DIVISION 1.—*Departmental inspectors—ss.* 7–12.

DIVISION 2.—*Coal Mining Qualifications Board—ss.* 13–18.

DIVISION 3.—*Certificates of competency—ss.* 19–24.

DIVISION 4.—*Suspension or cancellation of certificates of competency—ss.* 25–31.

PART III.—MANAGEMENT OF MINES—*ss.* 32–58.

DIVISION 1.—*Management generally—ss.* 32–46.

DIVISION 2.—*Immediate supervision of working of mines—ss.* 47–51.

DIVISION 3.—*Owner's instructions to mine officials and employees—ss.* 52–55.

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DIVISION 4.—*Delegation of functions by the manager of a mine—*  
*ss. 56–58.*

PART IV.—MINE INSPECTION AND SAFETY PROVISIONS—*ss. 59–133.*

DIVISION 1.—*Inspectors' powers of entry, inspection, etc.—ss. 59–62.*

DIVISION 2.—*Inspectors' powers where mine dangerous—ss. 63–68.*

DIVISION 3.—*Departmental officers' powers of entry—ss. 69, 70.*

DIVISION 4.—*Inspections on behalf of workmen—ss. 71–84.*

DIVISION 5.—*Notification of accidents and dangerous occurrences—*  
*ss. 85–92.*

DIVISION 6.—*Investigation of accidents and dangerous occurrences—*  
*ss. 93–100.*

DIVISION 7.—*Rules and schemes—ss. 101–113.*

DIVISION 8.—*Training rules—ss. 114–120.*

DIVISION 9.—*Closing of shafts and outlets in abandoned mines—ss.*  
*121–124.*

DIVISION 10.—*Control of emplacement areas—ss. 125–133.*

PART V.—OPERATION OF MINES—*ss. 134–145.*

DIVISION 1.—*Notice of operations, etc.—ss. 134–137.*

DIVISION 2.—*Methods or systems of working mines—ss. 138–141.*

DIVISION 3.—*Prospecting operations—ss. 142–145.*

PART VI.—REGULATION OF TOURIST AND EDUCATIONAL ACTIVITIES  
IN MINES—*ss. 146–149.*

PART VII.—LEGAL PROVISIONS—*ss. 150–166.*

DIVISION 1.—*Court of Coal Mines Regulation—ss. 150–155.*

DIVISION 2.—*Offences and proceedings for offences—ss. 156–166.*

PART VIII.—GENERAL—*ss. 167–174.*

SCHEDULE 1.—MINING OFFICIALS AND ORDER OF SENIORITY OF  
MINING OFFICIALS.

SCHEDULE 2.—PROVISIONS RELATING TO MEMBERS AND PROCEDURE  
OF BOARD.

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*Coal Mines Regulation.*

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**Act applies only to coal mines except where otherwise expressly enacted.**

4. Except in so far as is in this Act expressly enacted, this Act applies only to coal mines.

**Interpretation.**

5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“approved” means approved by the Chief Inspector;

“assistant superintendent”, in relation to a mine, means a person appointed under section 35 to be an assistant superintendent of the mine;

“Board” means the Coal Mining Qualifications Board constituted under this Act;

“certificate of competency” means a certificate granted under section 19;

“check inspector” means a person elected under section 71 in respect of a mine;

“Chief Inspector” means the person appointed as chief inspector of coal mines under section 7;

“coal” includes oil shale and kerosene shale, but does not include peat;

“colliery holding” has the meaning ascribed thereto in the Coal Mining Act, 1973;

“court” means a Court of Coal Mines Regulation constituted under section 150;

“Department” means the Department of Industrial Relations;

“Deputy Chief Inspector” means the person appointed as deputy chief inspector of coal mines under section 7;

“direction” includes any instruction, order or requirement authorised by this Act to be given or made by the Minister or an inspector;

“district check inspector”, in relation to a mine, means the person elected under section 77 as the district check inspector for the mine;

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- “district inspector”, in relation to a mine, means the inspector of coal mines appointed for the mine under section 7 (2);
- “drift” means a roadway driven in stone or alluvial matter, but does not include a shaft;
- “electrical check inspector”, in relation to a mine, means the person elected under section 80 as the electrical check inspector for the mine;
- “flammable gas” means methane, carbon monoxide or hydrogen;
- “functions” includes powers, authorities and duties;
- “inspector” means the Chief Inspector, the Deputy Chief Inspector, a senior inspector or a person appointed as an inspector of coal mines under section 7;
- “manager”, in relation to a mine, means the person appointed or nominated under section 36 as the manager of the mine;
- “methane” includes ethane, propane and similar hydrocarbon gases;
- “mine”, when used as a noun, includes (subject to subsections (3)–(16)) any place, land, building, structure, pit, shaft, drive, level, drift, excavation and work on or in which, or whereby, any operation for or in connection with mining is carried on and any pipe, conveyor or ropeway used for the conveyance of coal or stone;
- “mine”, when used as a verb, means to disturb, remove, cart, carry, crush or otherwise deal with coal or stone for the purpose of obtaining coal but does not include the act of exploring for coal by drilling from the surface;
- “mining official” means—
- (a) in relation to an underground mine—a person holding at the mine any position specified in Part A of Schedule 1; and
  - (b) in relation to an open cut mine—a person holding at the mine any position specified in Part B of Schedule 1;
- “official”, except in the expression “mining official”, means—
- (a) in relation to an underground mine—a person holding at the mine any position specified in Part A of Schedule 1 or any other position prescribed for the purposes of this paragraph; and

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- (b) in relation to an open cut mine—a person holding at the mine any position specified in Part B of Schedule 1 or any other position prescribed for the purposes of this paragraph;

“open cut mine” means a mine in which persons are not employed underground when the mine is being worked;

“outlet”, in relation to a mine, means a means of ingress or egress for persons, materials, coal or stone;

“owner”, in relation to a mine or a part of a mine, as the case may require, means any person who is the immediate proprietor, the lessee or the occupier of the mine or the part of the mine, and includes—

- (a) where the mine or the part of the mine is being worked by a person who is an official liquidator, receiver, manager or other person authorised by law (other than a provision of this Act) to carry on the business of working the mine—that person;
- (b) where the mine or the part of the mine belongs to, or is held in trust for, the Crown, a department of the Government or a statutory authority—the Crown, the department or the statutory authority, as the case may be; and
- (c) where the mine or the part of the mine is being worked by a contractor—the contractor,

but does not include a person who merely receives a royalty, rent or fine from the mine or the part of the mine or is merely holding the property on or in which the mine or the part of the mine is situated subject to any lease, grant or licence to, or contract with, another person for the working of the mine or the part of the mine;

“regulation” means a regulation made under this Act;

“roadway” means any passageway in a mine formed by the removal of coal or stone and through which is passed or is proposed to be passed coal, stone, persons, materials or ventilation;

“rules” means rules made under this Act or the regulations, other than rules of court;

“rules of court” means rules made under section 155;

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- “senior inspector” means a person appointed as a senior inspector of coal mines under section 7 (1) (c);
- “scheme” means a scheme prepared under this Act or the regulations;
- “shaft” includes a staple shaft;
- “stone” includes rock, clay, shale, soil and sand, but does not include coal;
- “superintendent”, in relation to a mine, means a person appointed under section 34 to be a superintendent of the mine;
- “support rules” means rules made under section 102;
- “surveyor”, in relation to a mine, means a person appointed under section 44 as the surveyor for the mine;
- “transport rules” means rules made under section 101;
- “underground mine” means a mine in which persons are employed underground when the mine is being worked;
- “Under Secretary” means the Under Secretary, Department of Industrial Relations;
- “vehicle” includes any mechanically driven machine capable of moving under its own power.

(2) A reference in this Act to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) In subsections (4) and (7), “place” includes land, building, structure, pit, shaft, drive, level, drift and excavation.

(4) The Minister may, by notice published in the Gazette, declare that—

- (a) any place, any part of any place or any place belonging to a class of place specified in the notice shall, for the purposes of this Act—
- (i) be deemed to be part of a mine; or
  - (ii) be deemed not to be part of a mine; or

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(b) any pipe, conveyor or ropeway, any part of a pipe, conveyor or ropeway or any pipe, conveyor or ropeway belonging to a class of pipe, conveyor or ropeway specified in the notice shall, for the purposes of this Act—

- (i) be deemed to be part of a mine; or
- (ii) be deemed not to be part of a mine.

(5) A notice under subsection (4) may apply to all mines, to a particular mine or particular mines or to all mines other than a particular mine or particular mines.

(6) A notice under subsection (4) has effect according to its tenor.

(7) Without limiting the generality of subsections (4)–(6), the Minister may, under subsection (4), declare that a place, pipe, conveyor or ropeway, or any part thereof, used by or in connection with 2 or more mines shall be deemed to be a part of one of those mines.

(8) For the purposes of this Act, any building, structure, pit, shaft, drive, level, drift, excavation or work—

- (a) which is in the course of construction and which is intended to be part of a mine;
- (b) which is a part of a mine and which is in the course of being abandoned; or
- (c) which is a part of a mine the operations at or in which are in the course of being discontinued,

shall be deemed to be part of a mine.

(9) For the purposes of this Act, a mine shall be deemed to be worked notwithstanding that the only work being carried out at the mine is in connection with—

- (a) sinking or raising a shaft or driving an outlet;
- (b) abandoning or discontinuing operations at the mine;
- (c) removing or replacing overburden; or
- (d) rehabilitating land used as an open cut mine.



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*Coal Mines Regulation.*

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**(10)** For the purposes of this Act, a mine shall be deemed to be worked until such time as a notice that the mine has been abandoned or operations at the mine have been discontinued has been given under section 134.

**(11)** Where 2 or more parts of a mine can be worked separately, the Chief Inspector may, on application by the owner of the mine, declare by instrument in writing that the several parts of the mine shall be deemed to be separate mines for the purposes of this Act.

**(12)** Where 2 or more mines can be worked as one mine, the Chief Inspector may, on application by the owner or owners of the mines, declare by instrument in writing that the mines shall be deemed to be one mine for the purposes of this Act.

**(13)** In making a declaration under subsection (11) or (12) the Chief Inspector shall have regard to the effect that the declaration may have on the safety of persons employed in the mines.

**(14)** A declaration made under subsection (11) or (12) may be made subject to conditions.

**(15)** The Chief Inspector may at any time revoke a declaration made under subsection (11) or (12).

**(16)** A declaration under subsection (11) or (12) has effect according to its tenor.

**(17)** Any power conferred by this Act or the regulations on the Minister or an inspector to—

- (a) grant or give an exemption, consent, approval, authority or direction;
- (b) impose any requirement, prohibition or restriction; or
- (c) make a determination,

includes a power, exercisable in the like manner and subject to the like conditions, if any, as the power so conferred, to vary or revoke the exemption, consent, approval, authority, direction, requirement, prohibition, restriction or determination.

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(18) An exemption, consent, approval or authority granted or given under this Act or the regulations by the Minister or an inspector may, subject to any express provision of this Act or the regulations—

(a) be without limit as to its period of operation; or

(b) be limited so as to expire on a specified date unless renewed, and may be absolute or conditional.

(19) Schedule 1 may be amended, added to or substituted (wholly or in part) by regulation.

**Act binds Crown.**

6. This Act binds the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

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**PART II.****ADMINISTRATION.****DIVISION 1.—*Departmental inspectors.*****Appointment of inspectors.**

7. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1979, appoint for the purposes of this Act—

(a) a chief inspector of coal mines;

(b) a deputy chief inspector of coal mines;

(c) senior inspectors of coal mines;

(d) inspectors of coal mines;

(e) a senior inspector of electrical engineering;

(f) inspectors of electrical engineering;

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- (g) a senior inspector of mechanical engineering; and
- (h) inspectors of mechanical engineering.

(2) The Chief Inspector or a person authorised by him may appoint an inspector of coal mines as the district inspector for a mine.

**Qualifications of inspectors.**

8. (1) A person shall not be appointed under section 7 (1) (a)–(d), inclusive, unless—

- (a) he holds a certificate of competency to be a manager of a mine;
- (b) he has had not less than 3 years' experience as a manager of an underground mine in Australia; and
- (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

(2) A person shall not be appointed under section 7 (1) (e) or (f) unless—

- (a) he holds a certificate of competency to be a mine electrical engineer;
- (b) he has had not less than 2 years' experience as a mine electrical engineer at an underground mine in Australia; and
- (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

(3) Subject to subsection (4), a person shall not be appointed under section 7 (1) (g) or (h) unless—

- (a) he holds a certificate of competency to be a mine mechanical engineer;
- (b) he has had not less than 2 years' experience as a mine mechanical engineer at an underground mine in Australia; and
- (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

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(4) Notwithstanding the provisions of subsection (3), during such period after the day appointed and notified under section 2 (2) as may be prescribed a person may be appointed under section 7 (1) (g) or (h) if—

- (a) he holds a degree or diploma in mechanical engineering of a kind approved by the Minister for the purposes of this paragraph; and
- (b) he has had, in the opinion of the Minister, sufficient mining experience to warrant his appointment.

**Disclosure of financial interests by inspectors.**

9. (1) A person appointed under section 7 shall advise the Under Secretary of any financial interest the person may hold, either directly or indirectly, in a mine.

(2) An advice referred to in subsection (1) shall be given—

- (a) where the interest is held at the time of the appointment—within 28 days of the appointment or within such further time as the Under Secretary may determine; or
- (b) where the interest is acquired after the appointment—within 28 days of the acquisition of the interest or within such further time as the Under Secretary may determine.

(3) The Under Secretary may direct a person appointed under section 7 to dispose of any financial interest held, either directly or indirectly, in a mine within such period as is specified by the Under Secretary.

(4) A person who is given a direction under subsection (3) shall comply with that direction.

**Functions of inspectors.**

10. (1) The Chief Inspector has the functions—

- (a) imposed on him by or under this Act; or
- (b) assigned to him by the Minister in connection with the administration of this Act.

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(2) The Deputy Chief Inspector has—

- (a) such of the functions of the Chief Inspector as are delegated to him under this Act to the extent that those functions are delegated; and
- (b) the functions assigned to him by the Minister in connection with the administration of this Act.

(3) The senior inspectors appointed under section 7 (1) (c) and the inspectors appointed under section 7 (1) (d) have the functions imposed on them by or under this Act.

(4) The Senior Inspector of Electrical Engineering and each inspector of electrical engineering appointed under section 7 (1) (f) have—

- (a) the functions imposed on them by or under this Act; and
- (b) the functions imposed on inspectors under sections 59 and 60 to the extent that those functions relate to the use, construction, installation, examination, repair, maintenance, alteration, adjustment or testing of electrical apparatus or electrical cables.

(5) The Senior Inspector of Mechanical Engineering and each inspector of mechanical engineering appointed under section 7 (1) (h) have—

- (a) the functions imposed on them by or under this Act; and
- (b) the functions imposed on inspectors of coal mines under sections 59 and 60 to the extent that those functions relate to the use, construction, installation, examination, repair, maintenance, alteration, adjustment or testing of mechanical equipment or the construction, erection or maintenance of buildings or structures.

**Absence of Chief Inspector and Deputy Chief Inspector.**

11. Where both the Chief Inspector and the Deputy Chief Inspector are absent from duty, or on duty but outside the State, the Minister may appoint an inspector to exercise the functions of the Chief Inspector.

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**Annual reports by inspectors.**

**12. (1)** Each inspector appointed under section 7 (1) (c)–(h) shall, at such time or within such period as the Chief Inspector may direct, make an annual report of his official activities during the preceding year to the Chief Inspector.

**(2)** The reports referred to in subsection (1), as summarised by the Chief Inspector, shall be furnished by the Chief Inspector to the Minister.

*DIVISION 2.—Coal Mining Qualifications Board.***Constitution of Board.**

**13. (1)** There is hereby constituted a board to be known as the Coal Mining Qualifications Board.

**(2)** The Board shall consist of 10 members, of whom—

- (a) one shall be the Chief Inspector;
- (b) one shall be the Deputy Chief Inspector;
- (c) one shall be a person who holds a certificate of competency as a manager and is either an owner, a superintendent or an assistant superintendent of a mine;
- (d) one shall be a manager of a mine;
- (e) one shall be a manager of an open cut mine;
- (f) one shall be a mine electrical engineer, mine mechanical engineer or surveyor for a mine;
- (g) one shall be a person employed as a deputy in a mine;
- (h) one shall be a person employed in a mine, other than a person referred to in paragraphs (c)–(g);
- (i) one shall be a person who, in the opinion of the Minister, represents a school of mining engineering in a university; and

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(j) one shall be a person who belongs to a technical education authority and who, in the opinion of the Minister, specialises in and is skilled in techniques of assessment and determination of qualifications.

(3) The members referred to in subsection (2), other than the ex-officio members, shall be appointed by the Minister by instrument in writing.

(4) A person of or over the age of 65 years shall not be appointed as a member.

(5) The Chief Inspector or, if the Minister so directs, the Deputy Chief Inspector shall be the chairman of the Board.

**Functions of Board.**

14. The Board shall—

- (a) determine the qualifications necessary for the grant of certificates of competency;
- (b) determine whether applicants for certificates of competency are eligible to be granted those certificates;
- (c) appoint examiners and conduct examinations for certificates of competency; and
- (d) carry out such research or investigations, either generally or in any particular case, in relation to certificates of competency and qualifications for the grant thereof as the Minister may require and make to the Minister reports or recommendations, as the case may require, in relation thereto.

**Examiners.**

15. (1) Examiners appointed by the Board shall be paid such remuneration (including travelling and subsistence allowances) as the Board may, with the approval of the Minister, determine.

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(2) An officer or temporary employee of the Public Service appointed as an examiner under this Act may retain for his own use remuneration paid to him under subsection (1).

**Expenses of Board.**

16. The expenses of the Board (including any remuneration payable to examiners appointed by them) shall be defrayed out of money provided by Parliament.

**Annual report.**

17. The Board shall, at such time or within such period as the Minister may direct, make an annual report of its proceedings during the preceding year to the Minister.

**Provisions relating to members and procedure of Board.**

18. (1) Schedule 2 has effect.

(2) Schedule 2 may be amended, added to or substituted (wholly or in part) by regulation.

*DIVISION 3.—Certificates of competency.***Certificates that may be granted.**

19. (1) The Minister may, on the recommendation of the Board, grant certificates of competency to be—

- (a) a manager of a mine;
- (b) an under-manager of a mine;
- (c) a deputy;
- (d) a mine electrical engineer;
- (e) a mine mechanical engineer;



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- (f) a mine surveyor;
- (g) a manager of an open cut mine;
- (h) an examiner of an open cut mine; or
- (i) a mine electrical engineer of an open cut mine.

(2) If the Board so recommends, the Minister may grant a certificate of competency subject to terms or conditions.

**Examinations and qualifications for certificates of competency.**

20. (1) The Board shall hold examinations for certificates of competency at such times and places as the Board may determine.

(2) The Board may give general instructions to examiners appointed by them with respect to the conduct and content of examinations.

(3) In determining whether or not to recommend the granting of a certificate of competency the Board shall have regard to such knowledge as is necessary for the practical working of mines.

(4) Examinations conducted by the Board for certificates of competency to be a deputy or an examiner of an open cut mine shall be suitable for practical working miners.

(5) The Board may accept, subject to any conditions it may impose, a certificate of competency granted by an authority outside New South Wales as being sufficient qualification for the grant of a certificate of competency under this Act.

(6) The Board may refuse to recommend the granting of a certificate of competency to a person on the grounds that a certificate of competency held by that person has been cancelled or suspended.

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**Holders of certain certificates may be appointed to other positions.**

**21. (1)** A person who holds a certificate of competency to be a manager of a mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold—

- (a) a certificate of competency to be an under-manager of a mine;
- (b) a certificate of competency to be a mine deputy;
- (c) a certificate of competency to be a manager of an open cut mine;  
or
- (d) a certificate of competency to be an examiner of an open cut mine.

**(2)** A person who holds a certificate of competency to be an under-manager of a mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold a certificate of competency to be a mine deputy.

**(3)** A person who holds a certificate of competency to be a manager of an open cut mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold a certificate of competency to be an examiner of an open cut mine.

**(4)** A person who holds a certificate of competency to be a mine electrical engineer may be appointed to a position under a provision of the regulations notwithstanding that the provision requires the appointee to hold a certificate of competency to be a mine electrical engineer of an open cut mine.

**Register.**

**22. (1)** The Chief Inspector shall keep a register of the holders of certificates of competency.

**(2)** The register referred to in subsection (1) shall be received in every court as evidence that a certificate of competency has or has not been granted to a person and of the class of a certificate of competency granted to a person.

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**Rules.**

**23. (1)** The Board, with the consent of the Minister, may make rules, not inconsistent with this Act, with respect to—

- (a) the qualifications to be held by a person in order for the grant to him of a certificate of competency to be recommended;
- (b) the experience that a person applying for a certificate of competency must have in order for the grant to him of a certificate of competency to be recommended;
- (c) the age which a person is to have attained before he may be granted a certificate of competency;
- (d) the course of instruction to be undertaken by an applicant for a certificate of competency;
- (e) subject to section 20, the nature and type of examinations to be undertaken by applicants for certificates of competency and the manner of their conduct;
- (f) the fees payable by applicants for certificates of competency and candidates for examinations conducted by the Board;
- (g) the circumstances in which the Board may grant to an applicant for a certificate of competency exemption from complying with the rules in respect of the undertaking of examinations, the holding of qualifications, the possession of experience and the attendance of courses of instruction;
- (h) the matters to be included in an application for a certificate of competency; and
- (i) such other matters as may be prescribed.

**(2)** A rule made under subsection (1) shall—

- (a) be published in the **Gazette**;
- (b) take effect on and from the date of publication or a later date specified in the rule; and
- (c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

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(3) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a rule has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

(4) For the purposes of subsections (2) and (3), sitting days shall be counted, whether or not they occur during the same session.

(5) Judicial notice shall be taken—

- (a) of a rule made or purporting to have been made under this section and published in the Gazette; and
- (b) of the date of its publication.

(6) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule have been complied with and performed.

**Regulations.**

24. The regulations may include provisions, not inconsistent with this Act, with respect to—

- (a) the issue and replacement of certificates of competency; and
- (b) the keeping of the register of holders of certificates of competency.

DIVISION 4.—*Suspension or cancellation of certificates of competency.*

**Notice to show cause.**

25. Where a person holding a certificate of competency has been convicted of an offence against this Act or, in the opinion of the Chief Inspector—

- (a) has, by reason of his incompetence or negligence, caused injury to any person or property; or
- (b) is, by reason of his incompetence or negligence, reasonably likely to cause injury to any person or property,

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and, in the opinion of the Chief Inspector, is unfit to hold the certificate, the Chief Inspector may serve on that person a notice—

- (c) stating that he is of that opinion;
- (d) giving the reasons why he is of that opinion; and
- (e) calling upon that person to show cause why his certificate should not be suspended or cancelled.

**Procedure following service of a notice to show cause.**

**26. (1)** A person served with a notice under section 25 may, within such period as may be prescribed commencing from the date of service of the notice, advise the Chief Inspector in writing whether or not it is his intention to show cause why his certificate of competency should not be suspended or cancelled.

**(2)** Where a person advises the Chief Inspector, in accordance with subsection (1), that it is not his intention to show cause why his certificate of competency should not be suspended or cancelled, the Minister shall—

- (a) suspend the certificate for such period as is specified by him;
- (b) cancel the certificate; or
- (c) direct that, for the purposes of subsection (3), the person be regarded as having failed to give an advice in accordance with subsection (1).

**(3)** Where a person—

- (a) advises the Chief Inspector, in accordance with subsection (1), that it is his intention to show cause why his certificate of competency should not be suspended or cancelled;
- (b) fails to advise the Chief Inspector, in accordance with subsection (1), whether or not it is his intention to show cause why his certificate of competency should not be suspended or cancelled; or
- (c) advises the Chief Inspector, in accordance with subsection (1), that it is not his intention to show cause why his certificate of competency should not be suspended or cancelled and the Minister has given a direction in respect of him under subsection (2) (c),

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the Chief Inspector shall, if the Minister so approves, file with a court within such period as may be prescribed commencing from—

- (d) where an advice has been given by the person as referred to in paragraph (a)—the date of receipt of that advice by the Chief Inspector; or
- (e) where the person has failed to give an advice as referred to in paragraph (b) or the Minister has given a direction in respect of him under subsection (2) (c)—the day after the date of expiration of the period during which the advice could have been given,

a statement in relation to the certificate of competency in such form and containing such particulars as may be specified in the rules of court.

**Hearing and determination by a court.**

**27. (1)** Following the filing with it of a statement under section 26 (3) in relation to a certificate of competency, a court shall—

- (a) hear and determine the matter; and
- (b) make a recommendation to the Minister as to whether or not the certificate of competency should be suspended or cancelled.

**(2)** Where a court makes a recommendation that a certificate of competency be suspended, the court shall specify the period of suspension recommended by it.

**(3)** Where a court makes a recommendation that a certificate of competency held by a person be suspended or cancelled, it may recommend that a certificate of competency of a class different from the class of the certificate of competency, the suspension or cancellation of which is recommended, be granted to the person subject to such conditions as it may specify.

**Suspension of certificates pending hearing.**

**28. (1)** Where—

- (a) the Chief Inspector has served a notice to show cause on a person under section 25; and

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(b) the Chief Inspector is of the opinion that, for reasons of safety—

- (i) the person's certificate of competency should be suspended;
- or
- (ii) the exercise of the rights conferred on the person by his certificate of competency should be restricted,

pending a hearing of the matter by a court,

the Chief Inspector may apply to a court for an order to suspend the certificate or restrict the exercise of the rights conferred by it, as the case may require, pending a hearing of the matter by a court.

(2) An application under subsection (1) shall be in such form and contain such particulars as may be specified in the rules of court.

(3) If a court so determines, having regard to the circumstances, it may hear and determine an application under subsection (1) without requiring the holder of the certificate of competency to be present and without any evidence being tendered on his behalf.

(4) If a court is satisfied that, for reasons of safety, a certificate of competency in respect of which an application has been made under subsection (1) should be suspended or the exercise of the rights conferred by it should be restricted, it may make an order to that effect subject to such conditions as it may specify.

(5) An order made under subsection (4) shall have effect according to its tenor.

**Surrender of certificates.**

29. A person whose certificate of competency is suspended or cancelled shall surrender his certificate to the Minister on being advised by the Minister of the suspension or cancellation.

**Restoration of certificates.**

30. (1) A court may, on the application of a person whose certificate of competency has been suspended or cancelled, recommend to the Minister that—

- (a) the certificate of competency which has been suspended or cancelled be restored; or

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- (b) a certificate of competency of a class different from the class of the certificate which has been suspended or cancelled be granted to that person.

(2) An application under subsection (1) shall be in such form and contain such particulars as may be specified in the rules of court.

**Minister to give effect to court's recommendations.**

31. The Minister shall give effect to any recommendations made by a court under this Division.

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**PART III.****MANAGEMENT OF MINES.****DIVISION 1.—*Management generally.*****Duties of owners.**

32. The owner of a mine shall make such provision as is, and take such steps as are, necessary to ensure that—

- (a) the mine is so planned, laid out and equipped as to enable it to be managed and worked in accordance with this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- (b) the mine is so managed and worked.

**Officials, order of seniority of mining officials and appointments.**

33. (1) A person shall not be appointed to a position at or in respect of a mine if that person's functions will involve the issuing of instructions with respect to the management or working of the mine, which instructions relate, either directly or indirectly, to the safety or health of persons employed at the mine, unless that person is appointed as a mining official in accordance with this Part.



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(2) Subsection (1) does not apply to the nomination by the owner of a mine of himself as manager of the mine.

(3) Each person holding a position as a mining official at a mine shall, in relation to all other mining officials at the mine, have seniority equivalent to—

- (a) in the case of an underground mine—the seniority indicated for that position in the order of seniority specified in Part A of Schedule 1; or
- (b) in the case of an open cut mine—the seniority indicated for that position in the order of seniority specified in Part B of Schedule 1.

(4) Notwithstanding that a mine or any part thereof is worked, or any part of the operations in a mine is carried on, by a contractor, the owner of the mine shall employ and pay the wages of all officials and shot firers at the mine unless the Chief Inspector otherwise approves.

(5) Except with the approval of the Chief Inspector, a contractor working, or carrying out operations in, a mine or any part thereof or any person employed by him, shall not be appointed to be an official of the mine.

### **Superintendents.**

34. (1) The owner of a mine may appoint a person as a superintendent of the mine.

(2) The owner of a mine shall not appoint a person as a superintendent of the mine unless that person is the holder of—

- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or
- (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

(3) Where the owner of a mine appoints a person as a superintendent of the mine and that person is to exercise all or some of the functions of the owner under this Act, the owner shall, as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period), give to that person written instructions specifying the functions of the owner under this Act which are to be exercised by that person.

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(4) Where the owner of a mine appoints a person as a superintendent of the mine, he shall, as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period), advise the district inspector and the manager of the mine in writing of—

- (a) the full name, address and title of the person so appointed;
- (b) the date of his appointment; and
- (c) the functions to be performed by him.

(5) The owner of a mine shall, within 14 days after a change in the functions of a superintendent, give to the district inspector a notice stating particulars of the change.

(6) No person, other than an owner of a mine, shall appoint a person as a superintendent of a mine.

**Appointment of assistant superintendents.**

35. (1) The owner or the superintendent of a mine may appoint as assistant superintendents of the mine such number of persons as is necessary to assist the superintendent of the mine to exercise his functions under this Act.

(2) The owner or the superintendent of a mine shall not appoint a person as an assistant superintendent of the mine unless that person is the holder of—

- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or
- (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

(3) Where the owner or the superintendent of a mine appoints a person as an assistant superintendent of the mine, the owner or the superintendent, as the case may be, shall, as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period), advise the district inspector and the manager of the mine in writing of—

- (a) the full name, address and title of the person so appointed;

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- (b) the date of his appointment; and
- (c) the functions to be performed by him.

(4) The owner or the superintendent of a mine who has appointed an assistant superintendent of the mine shall, within 14 days after a change in the functions of the assistant superintendent, give to the district inspector a notice stating particulars of the change.

(5) No person, other than an owner or a superintendent of a mine, shall appoint a person as an assistant superintendent of a mine.

**Managers.**

**36.** (1) The owner of a mine shall not work the mine at any time when—

- (a) there is no person appointed or nominated as the manager of the mine under this section; or
- (b) except as provided by section 48, there is more than one person appointed or nominated as the manager of the mine.

(2) The owner or superintendent of a mine may appoint a person as the manager of the mine or the owner of a mine, being an individual, may nominate himself as the manager of the mine.

(3) No person, other than an owner or a superintendent of a mine, shall appoint a person as the manager of a mine.

(4) The owner or the superintendent of a mine shall not appoint a person as the manager of the mine unless that person, or the owner of a mine (being an individual) shall not nominate himself as the manager of the mine unless he, is the holder of—

- (a) in the case of an underground mine at which the total number of persons usually employed below ground during a period of 24 hours when the mine is being worked is more than 15—a certificate of competency to be a manager of a mine;

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- (b) in the case of an underground mine at which the total number of persons usually employed below ground during a period of 24 hours when the mine is being worked is not more than 15—
- (i) a certificate of competency to be a manager of a mine; or
  - (ii) a certificate of competency to be an under-manager of a mine and a permit, issued to him by the Chief Inspector under subsection (5) and currently in force, to be the manager of the mine; or
- (c) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

(5) The Chief Inspector may issue to the holder of a certificate of competency to be an under-manager of a mine a permit to be the manager of a mine, specified in that permit, at which not more than 15 persons are usually employed below ground during a period of 24 hours when the mine is being worked.

(6) A permit issued under subsection (5) shall be in force for a period of 12 months, commencing from the date of issue (or, where a later date is specified in the permit, from that date), but may be renewed by the Chief Inspector on the recommendation of the district inspector for further periods, each of 12 months, commencing from the day after a date of expiration of the permit.

(7) The Chief Inspector may, by notice in writing given to the holder of a permit issued under subsection (5), cancel that permit.

(8) Copies of a notice given under subsection (7) to the holder of a permit to be the manager of a mine shall be sent by the Chief Inspector to the owner or the superintendent of the mine.

(9) A person shall not be the manager of more than one mine at the one time except with the approval of the Chief Inspector.

(10) The Chief Inspector shall not, under subsection (9), approve of a person being the manager of more than 2 mines at the one time.

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**Functions of managers.**

**37. (1)** Subject to any instructions given to him or to another person employed at the mine by—

- (a) the owner of the mine;
- (b) a superintendent of the mine; or
- (c) an assistant superintendent of the mine,

(excluding instructions which are required under section 52 or 54 to be confirmed in writing and which have not been so confirmed), the manager of a mine—

- (d) shall have full charge and control of—
  - (i) all persons employed at the mine; and
  - (ii) all operations at the mine;
- (e) shall enforce the observance, by all persons employed at the mine, of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- (f) shall have such other functions as may be conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

**(2)** Without limiting the generality of subsection (1), the manager of a mine shall—

- (a) appoint or employ such number of officials, engineers, technicians and other persons as is necessary to—
  - (i) operate the mine in conformity with; and
  - (ii) carry out any inspections at the mine required by, this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder;
- (b) ensure that the machinery, apparatus and equipment in use at the mine is maintained in a safe working condition;

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- (c) if the mine is an underground mine—
- (i) ensure that the height and width of roadways in the mine are at all times not less than those specified in the transport rules made in respect of that mine; and
  - (ii) ensure that the roof and sides of working places and roadways in the mine (other than roadways located in a part of the mine which is fenced off in pursuance of the regulations) are adequately supported where necessary for safety;
- (d) ensure that officials at the mine are in possession of such information and plans as are necessary to enable those officials to ensure that all operations at the mine for which they are responsible are carried out in a safe manner;
- (e) subject to subsection (3) (a), ensure that the persons appointed or employed as required under paragraph (a) understand the nature and scope of any functions which they are required to exercise under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder;
- (f) display in such manner and for such periods as may be prescribed copies of all exemptions from complying with any provisions of, or made under, this Act which have been granted in respect of the mine;
- (g) take steps to ensure that any matter which is of an abnormal or unusual nature and which could affect the safety of persons in the mine is promptly brought to his attention;
- (h) take such steps as may be necessary to ensure that at all times he is in possession of all available information relevant to the behaviour of strata surrounding the mine and its relationship to the safe working of the mine and all available information regarding disused excavations or workings in the vicinity of the mine; and
- (i) subject to subsection (3) (b), read each report, record or other item of information which is required to be made or recorded under this Act, the regulations, the rules and any schemes and

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any directions, or conditions of exemptions or approvals, given thereunder immediately upon his becoming aware of the existence of the report, record or other item.

(3) The manager of a mine shall be deemed to have complied with—

- (a) subsection (2) (e) in respect of a person appointed or employed as required under subsection (2) (a) if that person has acknowledged in writing that he understands the nature and scope of any functions which he is required to exercise under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- (b) subsection (2) (i) in respect of a report, record or other item of information referred to in that paragraph if—
  - (i) he ensures that it is read by a person appointed by him in writing (being a person having such qualifications as may be prescribed for the purposes of this subparagraph) immediately upon that person's becoming aware of the existence of the report, record or other item; and
  - (ii) he has taken steps to ensure that any matter disclosed in the report, record or other item which is of an abnormal or unusual nature and which could affect the safety of persons in the mine is promptly brought to his attention.

**Deputy managers.**

38. (1) The owner, the superintendent or the manager of a mine may appoint a person as a deputy manager of the mine or appoint a number of persons as deputy managers of the mine.

(2) The owner, the superintendent or the manager of a mine shall not appoint a person as a deputy manager of the mine unless that person is the holder of—

- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or
- (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

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(3) No person, other than an owner, a superintendent or a manager of a mine, shall appoint a person as a deputy manager of a mine.

**Under-managers in charge.**

39. (1) The owner of an underground mine shall not work the mine—

(a) at any time when the manager of the mine is also the manager of another mine in pursuance of an approval given under section 36 (9)—unless there is a person appointed under this section as an under-manager in charge of the whole of the mine or there is a number of persons appointed under this section as under-managers in charge in respect of the several underground parts of the mine; or

(b) where the Chief Inspector has, by reason of the size or condition of the mine, directed the owner not to work the mine unless a person is appointed under this section as an under-manager in charge of the whole of the mine or such number of persons as is specified in the direction is appointed under this section as under-managers in charge of the several underground parts of the mine—unless there is a person, or there are persons, appointed in compliance with the direction.

(2) The owner, the superintendent or the manager of an underground mine may appoint a person as an under-manager in charge of the whole of the mine or appoint a number of persons as under-managers in charge of the several underground parts of the mine.

(3) The owner, the superintendent or the manager of an underground mine shall not appoint a person as an under-manager in charge of the whole of the mine or of an underground part of the mine unless that person is the holder of a certificate of competency to be an under-manager of a mine.

(4) No person, other than an owner, a superintendent or a manager of an underground mine, shall appoint a person as an under-manager in charge of the whole or of an underground part of an underground mine.



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**Under-managers.**

**40. (1)** The owner, the superintendent or the manager of an underground mine may appoint a person as an under-manager of the whole or of an underground part of the mine or appoint a number of persons as under-managers of the several underground parts of the mine.

**(2)** A person may be appointed as an under-manager of the whole or of an underground part of an underground mine notwithstanding that no under-manager in charge of the whole or of the underground part of the mine has been appointed under section 39.

**(3)** The owner, the superintendent or the manager of an underground mine shall not appoint a person as an under-manager of the whole or of an underground part of the mine unless the person is the holder of a certificate of competency to be an under-manager of a mine.

**(4)** No person, other than an owner, a superintendent or a manager of an underground mine, shall appoint a person as an under-manager of the whole or of an underground part of an underground mine.

**Functions of under-managers in charge and under-managers.**

**41. (1)** An under-manager in charge, or an under-manager, of an underground mine may have jurisdiction in respect of the whole of the mine or his jurisdiction may be limited to an underground part of the mine.

**(2)** Each under-manager in charge, and each under-manager, of an underground mine shall enforce the observance, by all persons employed in—

- (a) where the whole of the mine is under his jurisdiction—the mine;  
or
- (b) where the whole of the mine is not under his jurisdiction—the part of the mine which is under his jurisdiction,

of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder in working the mine or that part of the mine, as the case may be.

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(3) Subsection (2) does not apply to an under-manager of an underground mine during a period when he is not on duty at the mine.

(4) For the purposes of this section, where a part of an underground mine is to be under the separate jurisdiction of any under-manager in charge or under-manager, the manager of the mine shall cause—

- (a) that part of the mine to be identified by a distinguishing name or number; and
- (b) the boundaries of that part of the mine to be—
  - (i) clearly marked underground in a manner approved by the district inspector; and
  - (ii) shown on a plan prepared, and displayed at the mine, as prescribed.

(5) The manager of an underground mine shall retain at the office of the mine a record of the starting and finishing times of the shifts of each under-manager of the mine.

### **Deputies.**

42. (1) The manager of an underground mine shall appoint such number of deputies as is sufficient in his opinion to carry out efficiently the functions at the mine conferred or imposed on deputies by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

(2) The manager of an underground mine shall not appoint a person as a deputy unless that person is the holder of a certificate of competency to be a deputy and such other qualifications as may be prescribed.

(3) No person, other than a manager of an underground mine, shall appoint a person as a deputy in relation to an underground mine.

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**Examiners of open cut mines.**

**43. (1)** The manager of an open cut mine shall appoint such number of examiners of open cut mines as is sufficient in his opinion to carry out efficiently the functions at the mine conferred or imposed on examiners of open cut mines by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

**(2)** The manager of an open cut mine shall not appoint a person as an examiner of an open cut mine unless that person is the holder of a certificate of competency to be an examiner of an open cut mine and such other qualifications as may be prescribed.

**(3)** No person, other than a manager of an open cut mine, shall appoint a person as an examiner of an open cut mine.

**Surveyors.**

**44. (1)** Subject to subsection (2), the owner of a mine shall not work the mine at any time when there is no person appointed as the surveyor for the mine.

**(2)** Where a vacancy occurs in the office of a surveyor for a mine, the mine may be worked for a period not exceeding 1 month, or such longer period as the district inspector may allow, until the vacancy is filled.

**(3)** The owner, the superintendent or the manager of a mine may appoint a person as the surveyor for the mine.

**(4)** The owner, the superintendent or the manager of a mine shall not appoint a person as the surveyor for the mine unless that person is the holder of such qualifications as may be prescribed.

**(5)** No person, other than an owner, a superintendent or a manager of a mine, shall appoint a surveyor for a mine.

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*Coal Mines Regulation.*

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**Appointment, qualifications and duties of certain officials, etc.**

**45. (1)** Regulations may be made—

- (a) requiring or authorising the appointment at all mines, at a particular class or description of mine or at a particular mine of such officials (not being officials the appointment of whom is required or authorised by a provision of this Act), engineers and technicians as may be specified in the regulations; and
- (b) specifying the qualifications to be held by a person who is required or authorised to be appointed by a provision of a regulation made under paragraph (a).

**(2)** Regulations may be made requiring the appointment at all mines, at a particular class or description of mine or at a particular mine of such officials (being officials the appointment of whom is authorised, but is not required, by a provision of this Act) as may be specified in the regulations.

**(3)** Regulations may be made specifying the functions, or additional functions, as the case may require, of any official required or authorised to be appointed by a provision of this Act or of any official, engineer or technician required or authorised to be appointed by a provision of a regulation made under this section.

**(4)** Regulations may be made specifying additional qualifications to be held by any official required or authorised to be appointed by a provision of this Act.

**Notification of appointment or nomination of certain officials and of changes in names, etc.**

**46. (1)** A person who appoints or nominates a person as the manager, deputy manager, under-manager in charge or under-manager of a mine, as a surveyor for a mine or as the holder of any position prescribed for the purposes of this subsection at a mine shall as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period) send to the district inspector a notification in writing (or, if there is an approved form, in that form) containing—

- (a) the full name, address and title of the person so appointed or nominated;

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(b) subject to subsection (5) and section 49, where the manager of the mine is or will be absent from the mine during the whole of that day—

(i) a deputy manager of the mine; or

(ii) a person appointed by the owner or the superintendent of the mine to act as manager of the mine,

attends the mine on that day and carries out the duties of the manager of the mine.

**(2)** The owner or the superintendent of a mine shall not appoint a person under subsection (1) (b) (ii) unless that person is the holder of—

(a) in the case of an underground mine—a certificate of competency to be a manager of a mine or a certificate of competency to be an under-manager of a mine; or

(b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine.

**(3)** A deputy manager attending a mine and exercising the functions of the manager of the mine in the circumstances referred to in subsection (1) (b) (i) or a person appointed to act as the manager of a mine under subsection (1) (b) (ii) shall, for the purposes of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder be deemed to be the manager of the mine with the same functions as the person whose functions he is exercising or in whose place he is appointed to act.

**(4)** Nothing in subsection (3) shall be construed as divesting a manager of a mine of any function conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

**(5)** Subject to section 49, where the manager of a mine does not attend the mine and carry out his duties at the mine for—

(a) a period of 2 months and the Chief Inspector has not allowed a longer period under paragraph (b)—the provisions of subsection (1) (b) shall cease to have effect in relation to that mine as from the expiration of that period of 2 months; or

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- (b) the date of his appointment or nomination;
- (c) details of the certificate of competency held by him, including the registered number thereof; and
- (d) such other particulars as may be prescribed.

(2) Where the jurisdiction of an under-manager in charge or an under-manager of an underground mine is limited to an underground part of the mine, that part of the mine shall be specified in the notification given under subsection (1) in respect of the under-manager in charge or under-manager and the notification shall be countersigned by the under-manager in charge or under-manager, as the case may be.

(3) The owner of a mine shall, within 14 days after a change—

- (a) in the name of the mine;
- (b) in the name of the owner of the mine; or
- (c) in the name of the secretary or the manager of the company which is the owner of the mine,

give to the district inspector a notice stating the particulars of the change.

DIVISION 2.—*Immediate supervision of working of mines.*

**Interpretation.**

47. (1) For the purposes of this Division, a mine shall be deemed to be being worked if any kind of work, whether mining or not, is being undertaken at the mine.

(2) In this Division, “on any day” means in any period of 24 hours ending at 12 midnight and “on that day” has a corresponding meaning.

**Manager, deputy manager or acting manager to be in attendance on each day on which a mine is worked.**

48. (1) The owner of a mine shall ensure that the mine is not worked on any day unless—

- (a) the manager of the mine attends the mine on that day and carries out his duties at the mine; or

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- (b) such period, in excess of 2 months, allowed by the Chief Inspector under this paragraph—the provisions of subsection (1) (b) shall cease to have effect in relation to that mine as from the expiration of that period.

(6) Where the owner of a mine knows that the manager of the mine will not be attending the mine for a period of 5 or more consecutive days, the owner shall give notice to that effect to the district inspector before the commencement of that period and inform him of the name, address and title of the person who will be carrying out the manager's duties during his absence.

**Working of mines where limited operations being undertaken.**

49. (1) Notwithstanding the provisions of sections 48 and 50, the owner of an underground mine may work the mine on any day where—

- (a) no mining is taking place at the mine and any operations underground at the mine do not involve—
- (i) the employment of more than 15 persons underground at any one time; or
  - (ii) any alteration to the mine ventilation system or any alteration to the ventilation of a part of the mine (other than an alteration which it is usual to make during the working of a part of the mine); and
- (b) the owner, the superintendent or the manager of the mine has appointed a person, being a person who holds a certificate of competency to be a manager of a mine, a certificate of competency to be an under-manager of a mine or a certificate of competency to be a deputy, to be responsible for the carrying out of the operations at the mine on that day and that person attends the mine on that day.

(2) Notwithstanding the provisions of sections 48 and 50, the owner of an underground mine may work the mine on any day when no persons are employed underground at the mine if the owner, the superintendent or the manager of the mine has appointed a competent person to be responsible for the carrying out of the operations at the mine on that day and that person attends the mine on that day.

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*Coal Mines Regulation.*

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(3) Notwithstanding the provisions of section 48, the owner of an open cut mine may work the mine on any day when—

- (a) no mining is taking place at the mine; and
- (b) any other operations being undertaken at the mine do not involve the employment of more than 10 persons,

if the owner, the superintendent or the manager of the mine has appointed a person, being a person who holds a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine, to be responsible for the carrying out of the operations at the mine on that day and that person attends the mine on that day.

**Under-manager in charge or acting under-manager in charge to be in attendance on each day on which a mine is worked.**

50. (1) Where the owner of an underground mine is prohibited by section 39 (1) from working the mine unless there is a person appointed as an under-manager in charge of the whole of the mine, the owner of the mine shall ensure that the mine is not worked on any day unless—

- (a) the person appointed as the under-manager in charge of the mine under section 39 attends the mine on that day and carries out his duties at the mine; or
- (b) where that person is or will be absent from the mine during the whole of that day—a person appointed by the owner, the superintendent or the manager of the mine to act as under-manager in charge of the mine attends the mine on that day and carries out the duties of under-manager in charge of the mine.

(2) Where the owner of an underground mine is prohibited by section 39 (1) from working an underground part of the mine unless there is a person appointed as an under-manager in charge of that part of the mine, the owner of the mine shall not work the mine on any day unless—

- (a) the person appointed as the under-manager in charge of that part of the mine under section 39 attends the mine on that day and carries out his duties at the mine; or



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(b) where that person is or will be absent from the mine on that day—a person appointed by the owner, the superintendent or the manager of the mine to act as under-manager in charge of that part of the mine attends the mine on that day and carries out the duties of under-manager in charge of that part of the mine.

(3) The owner, the superintendent or the manager of an underground mine shall not appoint a person under subsection (1) (b) or (2) (b) unless that person is the holder of a certificate of competency to be a manager of a mine or a certificate of competency to be an under-manager of a mine.

(4) A person appointed under this section to act as an under-manager in charge shall, for the purposes of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder be deemed to be an under-manager in charge with the same functions as the person in whose place he is appointed to act.

(5) Nothing in subsection (4) shall be construed as divesting an under-manager in charge of a mine or of part of a mine of any function conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

**Person qualified to be an under-manager to be in charge on any shift.**

51. (1) On and from the date that is 5 years after the day appointed and notified under section 2 (2), the owner of an underground mine shall not work the mine or a part of the mine on any shift unless the mine or the part of the mine, as the case may be, is in the charge of a person who is qualified to be appointed as an under-manager.

(2) Subsection (1) does not apply in respect of a mine where—

- (a) the only operations being carried out at the mine are on the surface;  
or
- (b) no mining is taking place at the mine and any operations underground at the mine do not involve—
  - (i) the employment of more than 15 persons underground at any one time; or

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- (ii) any alteration to the mine ventilation system or any alteration to the ventilation of a part of the mine (other than an alteration which it is usual to make during the working of a part of the mine).

*DIVISION 3.—Owner's instructions to mine officials and employees.***Manager may require instructions to be confirmed in writing.**

**52.** Any instructions given to the manager of a mine or any other official or employee of the mine by or on behalf of the owner of the mine relating to the functions of the manager, other official or employee under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder shall be confirmed in writing by the person who gave them immediately after a request to do so is made by the manager, official or employee, as the case may be.

**Instructions to employees to be given through the manager.**

**53. (1)** Except in the case of an emergency, neither the owner of a mine nor a person acting on his behalf shall give to an official of the mine less senior than the manager of the mine or to an employee of the mine any instructions relating to the functions of the official or employee under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder otherwise than through, or with the consent of, the manager of the mine.

**(2)** If instructions relating to the functions of an official or employee of a mine under this Act, the regulations, the rules or any schemes or any directions, or conditions of exemptions or approvals, given thereunder are given to—

- (a) an official of a mine less senior than the manager of the mine; or
- (b) an employee of the mine,

otherwise than through, or with the consent of, the manager of the mine, the person who gave the instructions shall inform the manager of the mine immediately of the substance of the instructions.

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**Certain instructions not to be executed unless confirmed.**

**54. (1)** Without limiting the generality of section 52—

(a) where instructions are given to—

(i) the manager of a mine;

(ii) an official of a mine less senior than the manager of a mine;  
or

(iii) an employee of a mine,

by the owner of a mine or by a person on behalf of the owner of the mine (being, in either case, an owner or a person who is not qualified for appointment or nomination as the manager of the mine); and

(b) the manager of the mine is of the opinion that the execution of the instructions would, or might be likely to, prejudice the safety or health of any person employed at the mine or impede any person employed at the mine in the exercise of any function conferred or imposed on him by or under this Act,

the manager of the mine shall—

(c) where the instructions are given to him, decline to execute them until they are confirmed in writing by a person—

(i) who is qualified for appointment or nomination as the manager of the mine; and

(ii) who, if he is not the owner of the mine, is authorised by the owner of the mine to confirm the instructions, or

(d) where the instructions are given to another person, direct that person not to execute the instructions until they are confirmed in writing by a person referred to in paragraph (c).

**(2)** A person given a direction under subsection (1) (d) shall comply with the direction.

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**Instructions confirmed in writing to be preserved.**

**55.** Where instructions to any person at a mine are confirmed in writing in accordance with this Division—

- (a) the original instructions shall forthwith be delivered by the person who confirmed them to the manager of the mine; and
- (b) a copy of the instructions shall be kept by the owner of the mine or supplied by the person who confirmed them to the owner of the mine,

who shall preserve that original or copy, as the case may be, for at least 6 years after the instructions cease to be effective.

*DIVISION 4.—Delegation of functions by the manager of a mine.*

**Manager may delegate functions.**

**56. (1)** Subject to this Division, the manager of a mine may, by instrument in writing, delegate to an official or other person employed at the mine the exercise of such of the functions conferred or imposed on him by or under this Act as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

**(2)** Where a form of instrument of delegation is approved for the purposes of this section, a delegation under this section shall be in that form and shall contain such matters as are required to be inserted in that form.

**(3)** Subject to section 57, a delegation under this section has no effect unless it is countersigned by the delegate.

**(4)** The manager of a mine shall not delegate under subsection (1) the exercise of—

- (a) his power of delegation; or
- (b) such of his functions as are prescribed for the purposes of this subsection.

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(5) Regulations may be made prescribing, in respect of the functions of a manager of a mine that may be delegated under subsection (1)—

- (a) the official or other person, or class of official or other person; or
- (b) the qualifications to be held by an official or a person, to whom the exercise of a function may be delegated.

(6) Where a regulation referred to in subsection (5) is made in respect of a function of a manager of a mine, the manager shall not delegate the exercise of that function other than to—

- (a) an official or a person;
- (b) an official or a person belonging to a class of official or person; or
- (c) an official or a person holding the qualifications, prescribed under that subsection.

(7) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(8) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(9) Any act or thing done or suffered by a delegate while exercising a function delegated to him under this section has the same force and effect as if the act or thing had been done or suffered by the manager.

(10) A function, the exercise of which has been delegated by the manager of a mine under this section, shall, while the delegation remains unrevoked—

- (a) be deemed not to be the function of the manager; and
- (b) be deemed to be the function of the delegate,

for the purposes of this Act.

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**Instruments of delegation to be countersigned by delegate.**

**57. (1)** Subject to subsection (2), a delegate under an instrument of delegation executed under section 56 shall countersign the delegation.

**(2)** A delegate may refuse to countersign an instrument of delegation under section 56 if he is of the opinion that the delegation is unreasonable.

**(3)** Where a delegate refuses to countersign an instrument of delegation executed by the manager of a mine under section 56, he shall serve a notice in writing (or, if a form is approved for the purposes of this subsection, in that form) on the manager within 7 days of the making of the delegation setting out the reasons for his refusal.

**(4)** A manager of a mine may—

- (a) on receipt of a notice served under subsection (3) in respect of a delegation; or
- (b) if, within the period prescribed by subsection (3), no notice is served on him under that subsection in respect of a delegation which a delegate has refused to countersign,

either confirm or revoke the delegation.

**(5)** If a manager of a mine confirms a delegation under subsection (4), he shall refer the delegation to a court which may hear and determine the matter and—

- (a) if it is of the opinion that the delegation is reasonable—order that the delegation be deemed to have been countersigned by the delegate; or
- (b) if it is of the opinion that the delegation is unreasonable—order that the delegation be deemed to have been revoked,

and make such other order in relation to the delegation as it thinks fit.

**(6)** An order made under subsection (5) shall have effect according to its tenor.

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**Copies of instruments of delegation to be sent to the district inspector.**

**58. (1)** A manager of a mine shall send a copy of any instrument of delegation executed by him under section 56 to the district inspector as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period) after the execution of the instrument.

**(2)** Where an instrument of delegation executed by the manager of a mine under section 56—

- (a) is countersigned or deemed to have been countersigned by the delegate after a copy thereof has been sent to the district inspector in accordance with subsection (1); or
- (b) is revoked or deemed to have been revoked,

the manager shall so advise the district inspector in writing as soon as practicable thereafter.

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**PART IV.****MINE INSPECTION AND SAFETY PROVISIONS.****DIVISION 1.—*Inspectors' powers of entry, inspection, etc.*****Powers generally.**

**59. (1)** An inspector shall, for the purpose of the execution of this Act, have the power to do all or any of the following things:—

- (a) at any time (whether by day or by night) to—
  - (i) enter a mine and inspect the whole or any part of the mine and anything at the mine;
  - (ii) enter upon any land, place or premises (other than a mine) or vehicle in the performance of his functions under this section;

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- (b) to make such examination and inquiry as may be necessary to ascertain—
- (i) whether, so far as regards a mine or persons employed at a mine, this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder have been complied with;
  - (ii) whether there is at a mine any matter or thing which affects or is likely to affect the safety or health of persons employed at the mine;
  - (iii) the causes and circumstances of any accident or other occurrence at a mine;
- (c) subject to subsection (2), to take with him in, or on, to any mine or other land, place or premises or vehicle, for the purpose of any inspection, examination or inquiry, such persons as he considers necessary to assist him in the performance of his functions.

**(2) Where—**

- (a) in the case of a mine—the manager of the mine; or
- (b) in the case of any other land, place or premises or any vehicle—a person occupying or having charge or control thereof,

objects to a person referred to in subsection (1) (c) entering the mine, land, place, premises or vehicle, that person shall not enter the mine, land, place, premises or vehicle unless the approval of the Chief Inspector, either orally or in writing, is obtained.

**Supplementary powers.**

**60. (1)** For the purpose of any inspection, examination or inquiry referred to in section 59, an inspector shall have power to do all or any of the following things:—

- (a) subject to subsection (2), to require any person—
  - (i) whom he finds at a mine or whom he has reasonable cause to believe to be, or within the preceding 2 months to have been, employed at the mine; and



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- (ii) who has been informed of the provisions of subsection (2), to answer (in the absence of persons, other than a person nominated to be present by the person to be questioned and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask;
- (b) to take samples of any articles or substance found at a mine or of the atmosphere in a mine;
- (c) subject to subsections (3) and (4), to take possession of any machinery, apparatus or other article at a mine which appears to him to have caused, or to be likely to cause, danger to safety or health of any persons employed at the mine and cause it to be dismantled, removed or subjected to any process or test, notwithstanding that it is thereby damaged or destroyed;
- (d) to require the production of, and to inspect—
  - (i) any registers, books, plans or other documents which by virtue of this Act and the regulations are required to be kept; and
  - (ii) any other documents, being documents which are in the possession or under the control of the owner or the manager of a mine and are relevant for the purposes of such an examination or inquiry;
- (e) to require the manager of a mine to mark or cause to be marked on any plan of workings in the mine produced in compliance with a requirement imposed under paragraph (d) such information as the inspector considers relevant to such an examination or inquiry;
- (f) to require any person having responsibilities under this Act in relation to a mine to give him such facilities and assistance, with respect to any matters or things to which the responsibilities of that person extend, as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by section 59 and this section.

(2) An answer given by a person in pursuance of a requirement imposed under subsection (1) (a) shall not be admissible in evidence against him in any proceedings except proceedings for an offence under section 62 (e).

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(3) Where it appears likely to the manager of a mine that a process or test referred to in subsection (1) (c) will result in machinery, apparatus or an article being damaged or destroyed, the manager may request the inspector concerned not to subject the machinery, apparatus or article to the process or test.

(4) Where the manager of a mine makes a request to an inspector under subsection (3) in respect of machinery, apparatus or an article, the inspector shall not subject the machinery, apparatus or article to any process or test unless the approval of the Chief Inspector, either orally or in writing, is obtained.

**Inspector to inform mine management of certain matters.**

61. If, as a result of the exercise at or in connection with a mine of any of the powers conferred on him under section 59 or 60, an inspector obtains any information or becomes aware of any practice at the mine which may, in his opinion, be relevant to the continued safe operation of the mine or the safety of the persons employed at the mine, he shall, as soon as possible, so advise the manager of the mine or, if he is not present at the mine, the next most senior mining official on duty at the mine.

**Offences.**

62. A person shall not—

- (a) wilfully fail to comply with any requirement imposed by an inspector under this Division;
- (b) wilfully prevent, or attempt to prevent, any other person from appearing before an inspector or from answering any question to which an inspector may, by virtue of section 59 or 60, require an answer;
- (c) without permission granted by an inspector, wilfully remove from a mine, or conceal or tamper with, any machinery, apparatus or other article of which possession has been taken by an inspector under section 60;

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- (d) wilfully fail to comply with a requirement made under section 60 (1) (a) within a period of 24 hours of the requirement being made;
- (e) in giving any answer required of him by an inspector under section 60 (1) (a) make a statement which he knows to be false in a material particular or recklessly make a statement which is false in a material particular; or
- (f) wilfully obstruct an inspector in the exercise of his functions.

*DIVISION 2.—Inspectors' powers where mine dangerous.***Inspector may impose prohibitions or restrictions or direct evaluation or closure of mine.**

**63. (1)** If an inspector is of the opinion that a mine or any part thereof or any matter, thing or practice at a mine or connected with the control or management of a mine is, or is liable shortly to become, dangerous to the safety or health of any persons employed at the mine, he may serve on the owner or the manager of the mine a notice—

- (a) stating that he is of that opinion; and
  - (b) giving particulars of his reasons for being of that opinion,
- and, by way of that notice—
- (c) impose upon that owner or manager such prohibitions and restrictions, and require that owner or manager to carry out such works or do such things—
    - (i) as appear to the inspector to be necessary for the purpose of safeguarding the safety or health of the persons employed at the mine; and
    - (ii) as are set out in the notice; or
  - (d) direct that owner or manager to cause the mine or any part thereof—
    - (i) to be evacuated immediately; or
    - (ii) to be closed, either indefinitely or for such period as is specified by the inspector,or give a direction under both subparagraphs (i) and (ii),
- or he may both impose prohibitions and restrictions under paragraph (c) and give a direction under paragraph (d).

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(2) A prohibition, restriction or requirement imposed, or a direction given, by way of a notice served under subsection (1) may—

- (a) be subject to such exemptions as are set out in the notice; and
- (b) operate either indefinitely or for such period as is set out in the notice.

(3) An inspector may, in any notice served under subsection (1), require the notice to be complied with immediately or within a period specified in the notice.

(4) Where a notice under subsection (1) cannot be readily served on the owner or the manager of a mine and the circumstances necessitate that the action required by the notice be taken immediately, it may be served on the next senior mining official at the mine.

(5) Where a notice is served by an inspector on the next senior mining official at a mine in accordance with subsection (4), the inspector shall, as soon as practicable, serve on the owner or the manager of the mine a signed copy of the notice.

(6) A copy of a notice served by an inspector under subsection (1) or (4) shall be forwarded immediately by the inspector to the Chief Inspector.

(7) Any notice served under subsection (1) or (4) shall remain in force until it is varied or revoked by the Chief Inspector pursuant to section 65 (2) or by an order of a court pursuant to section 65 (4) unless it sooner expires.

**Authorised persons may enter mine to carry out repairs, etc.**

64. (1) An inspector may authorise persons to enter a mine or a part thereof and carry out repair or other work therein notwithstanding the terms of any notice served under section 63.

(2) A person acting under an authority given in accordance with subsection (1) shall not be guilty of an offence arising under section 63.

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**Objections to notices, directions, etc.**

**65. (1)** If a person served with a notice under section 63 (1) or (4) objects to complying with any prohibition, restriction, requirement or direction set out in the notice, he may state the grounds of his objections in writing and submit them to the Chief Inspector.

**(2)** The Chief Inspector shall, within 21 days of the receipt of an objection submitted to him under subsection (1), confirm, vary or revoke the notice in respect of which the objection was submitted.

**(3)** If the owner or the manager of a mine is dissatisfied with any decision of the Chief Inspector made under subsection (2) in respect of the mine of which he is the owner or manager, he may appeal to a court.

**(4)** A court may confirm, vary or revoke—

(a) any notice served under section 63; or

(b) any decision of the Chief Inspector made under subsection (2),

in respect of which an appeal is made under subsection (3).

**(5)** Where—

(a) a notice is varied under subsection (2), the notice as varied shall remain in force until it is varied or revoked by a court pursuant to subsection (4) unless it sooner expires;

(b) a notice is varied under subsection (4), the notice shall have force as varied; and

(c) a decision is varied under subsection (4), the notice in respect of which the decision was given shall have force as affected by the decision as varied.

**Prohibition, etc., to be complied with notwithstanding objection or appeal.**

**66. (1)** Subject to subsection (2), a notice served under section 63 shall, while it remains in force, be complied with notwithstanding that an objection to the Chief Inspector or an appeal to a court has been made pursuant to section 65.

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(2) Where a decision is made by the Chief Inspector or a court in respect of a notice served under section 63 (not being a decision to revoke the notice), the notice as affected by that decision shall be complied with.

**Offence.**

67. A person shall not fail to comply with a prohibition, restriction or requirement imposed on him, or with a direction given to him, under this Division.

Penalty: \$10,000.

**Court orders.**

68. (1) Where any person fails to comply with a prohibition, restriction or requirement imposed on him, or with a direction given to him, under this Division, a court, on the application of the Chief Inspector, may, whether or not that person has been prosecuted in respect of that failure, order that person to comply with the prohibition, restriction, requirement or direction, as the case may require.

(2) A person who fails to comply with an order under subsection (1) shall be dealt with as for contempt of court.

DIVISION 3.—*Departmental officers' powers of entry.*

**Authorised officers may enter mines for certain purposes.**

69. A person who holds a position in the Public Service and who is authorised in writing by the Chief Inspector may enter any mine for any purpose specified in the authority.

**Obstruction, etc., of authorised officers.**

70. (1) A person shall not wilfully obstruct or prevent any person authorised by the Chief Inspector under section 69 from carrying out the purpose specified in the authority.

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(2) An owner, a superintendent or a manager of a mine shall not refuse or neglect to furnish to a person authorised by the Chief Inspector under section 69 the means necessary for making any entry into the mine and carrying out the purpose specified in the authority.

DIVISION 4.—*Inspections on behalf of workmen.*

**Check inspectors.**

71. (1) For the purpose of enabling inspections to be carried out at a mine on behalf of the persons employed at the mine, 2 persons who are practical miners may be elected as check inspectors for the mine.

(2) At least one of the persons elected in respect of a mine under subsection (1) shall be employed at the mine.

(3) At least one of the persons elected in respect of a mine under subsection (1) shall have had—

- (a) where the mine is an underground mine—not less than 3 years' practical experience in underground coal mining; and
- (b) where the mine is an open cut mine—not less than 3 years' practical experience in open cut coal mining.

(4) At least one of the persons elected in respect of an underground mine under subsection (1) shall be the holder of a certificate of competency to be a deputy.

**Election of check inspectors.**

72. For the purposes of section 71, regulations may be made prescribing—

- (a) the persons, or class of person, entitled to vote at an election under that section; and
- (b) the manner in which an election under that section shall be held.

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*Coal Mines Regulation.*

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**Powers of check inspectors.**

73. (1) Subject to subsections (2) and (3), a check inspector for a mine shall be allowed to inspect the mine.

(2) For the purposes of an inspection under this Division, a check inspector shall be accompanied by—

- (a) the manager of the mine; or
- (b) other officials of the mine,

if the manager of the mine thinks fit.

(3) An inspection of a mine by a check inspector shall be at the check inspector's own cost unless it is otherwise agreed between the check inspector and the manager of the mine.

(4) Without limiting the generality of subsection (1), a check inspector for a mine may—

- (a) at any time go into and inspect the shafts, roadways, working places, old workings and machinery and equipment at the mine;
- (b) inspect any documents or plans which by virtue of this Act or the regulations are required to be kept at the office of the mine;
- (c) where there is at the mine an accident or other occurrence (being an accident or occurrence for which notice is required by or under this Act to be given), inspect the place where the accident or other occurrence happened and, so far as is necessary for the purpose of ascertaining its cause—
  - (i) inspect any other part of the mine and any machinery, apparatus or other thing thereat; and
  - (ii) test the atmosphere at the place where the accident or other occurrence happened.

(5) A check inspector who is not a district check inspector shall not leave his place of work for the purpose of making an inspection under this section unless he gives reasonable notice to an official of his intention to do so.



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*Coal Mines Regulation.*

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**Assistance to check inspectors.**

74. The manager of a mine and all other persons at the mine shall afford every facility and assistance to a check inspector for the purposes of an inspection of the mine by him.

**Reports by check inspectors.**

75. (1) A check inspector for a mine shall, within 7 days of making an inspection of the mine or of any part thereof, send to the manager of the mine a report of the results of the inspection.

(2) A report under subsection (1) in respect of a mine or a part of a mine shall be preserved at the mine by the manager of the mine for at least 12 months after it is made.

**Reporting of dangers.**

76. (1) A report of the finding, during any inspection by a check inspector for a mine, of—

- (a) noxious or flammable gas;
- (b) the existence of self-heating by coal or other material; or
- (c) any other condition from which danger to the mine or to the safety or health of persons employed thereat may be apprehended,

shall be recorded by the check inspector in a book (to be kept at the mine by the manager of the mine for that purpose) on the day of the inspection and before he leaves the mine following the inspection.

(2) If any report recorded under subsection (1) in respect of a mine states the existence, or suspected existence, of any danger, the manager of the mine shall forthwith orally inform the district inspector of the contents of the report and cause a copy of the report to be sent to the district inspector.

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*Coal Mines Regulation.*

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**District check inspectors.**

77. (1) A person may be elected as the district check inspector for a mine.

(2) The Minister, on the recommendation of the Chief Inspector, may authorise a district check inspector who is the holder of a certificate of competency to be a deputy to exercise the power referred to in subsection (3).

(3) If a district check inspector for a mine, being a district check inspector who is for the time being authorised under subsection (2), is of the opinion that—

- (a) there has been a failure to comply with a provision of this Act, the regulations, the rules or any schemes or any directions, or conditions of exemptions or approvals, given thereunder; and
- (b) because of that failure there is a danger to the safety or health of persons employed at a place at the mine,

he may serve on the most senior mining official who is responsible for, and who is at or near, that place a notice—

- (c) stating that he is of the opinion;
- (d) giving particulars of his reasons for being of that opinion; and
- (e) giving particulars of the action which, in his opinion, should be taken to remove the danger;

and, by way of that notice, direct that any operations being carried on at the place be suspended.

(4) A notice under subsection (3) shall, if a form has been approved for the purposes of this section, be in that form.

(5) A mining official at a mine who is given a direction under subsection (3) shall forthwith—

- (a) comply with the direction; and
- (b) if he is not the most senior mining official at the mine, advise the most senior mining official at the mine that he has been given the direction.

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(6) Where a direction under subsection (3) is given to a mining official at a mine, the most senior mining official at the mine shall orally advise an inspector of the giving of the direction.

(7) A direction given under subsection (3) shall cease to have effect—

- (a) on inspection by an inspector of the place to which it relates; or
- (b) on withdrawal, by instrument in writing, of the direction by the district check inspector by whom it was given.

(8) A mining official who fails to comply with a direction given to him under subsection (3) shall be guilty of an offence against this Act.

(9) Notwithstanding that a direction has been given to a mining official at a mine under subsection (3), the manager of the mine may cause work to be carried out in the place to which the direction relates for the purpose of preventing or mitigating danger.

**Election of district check inspectors.**

78. For the purposes of section 77, regulations may be made prescribing—

- (a) the persons, or class of person, entitled to vote at an election under that section; and
- (b) the manner in which an election under that section shall be held.

**District check inspector may act as check inspector.**

79. (1) Where 2 persons have not been elected as check inspectors for a mine in accordance with this Division, a district check inspector elected for the mine in accordance with this Division may act as a check inspector for the mine.

(2) Not more than one district check inspector shall act as a check inspector for a mine at the one time.

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*Coal Mines Regulation.*

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**Electrical check inspectors.**

**80. (1)** For the purposes of enabling inspections of electrical equipment to be carried out at a mine on behalf of the persons employed at the mine, a person may be elected as an electrical check inspector for the mine.

**(2)** A person elected under subsection (1) shall—

- (a) be the holder of a mine electrical engineer's certificate of competency, a trade rights certificate or an indenture of electrical tradesman; and
- (b) where the person is the holder of a trade rights certificate or an indenture of electrical tradesman—have not less than 5 years' experience in coal mines in New South Wales.

**(3)** Not more than one electrical check inspector shall be elected for a mine.

**(4)** The same person may be elected as an electrical check inspector for 2 or more mines.

**Election of electrical check inspectors.**

**81.** For the purposes of section 80, regulations may be made prescribing—

- (a) the persons, or class of person, entitled to vote at an election under that section; and
- (b) the manner in which an election under that section shall be held.

**Powers of electrical check inspectors.**

**82. (1)** Subject to subsection (2), an electrical check inspector shall be allowed to inspect the electrical equipment at a mine for which he has been elected.

**(2)** Sections 73 (2), (3) and (4), 74 and 75 apply, in respect of a mine, to and in respect of electrical check inspectors in the same way as they apply to and in respect of check inspectors for a mine.

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*Coal Mines Regulation.*

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**Reporting of dangers.**

**83. (1)** The finding, during any inspection of a mine by an electrical check inspector, of any danger, or suspected danger, to the mine or to the safety or health of persons employed thereat shall be recorded by the electrical check inspector in a book (kept at the mine by the manager of the mine for that purpose) on the day of the inspection and before he leaves the mine following the inspection.

**(2)** If any report under subsection (1) in respect of a mine states the existence, or suspected existence, of any danger, the manager of the mine shall forthwith cause a copy of the report to be sent to the district inspector.

**Notification of election.**

**84.** A person elected as a check inspector, district check inspector or electrical check inspector for a mine shall—

- (a) notify the manager of the mine and the district inspector of his election; and
- (b) furnish to them his address and telephone number.

*DIVISION 5.—Notification of accidents and dangerous occurrences.***Interpretation.**

**85.** In this Division—

“dangerous occurrence” means an occurrence which is specified in the regulations as being a dangerous occurrence;

“serious bodily injury” means an injury which is specified in the regulations as being a serious bodily injury.

**Notification of accidents.**

**86. (1)** Where an accident occurs at a mine, being an accident which causes the death of, or serious bodily injury to, a person, the manager of the mine shall—

- (a) forthwith give oral notice of the accident to the district inspector and to the district check inspector; and

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- (b) within 24 hours next after the accident send a written notice to the district inspector and to the district check inspector stating—
- (i) the nature of the accident;
  - (ii) the names of the persons killed or injured; and
  - (iii) the number of persons killed or injured.

(2) If a form is approved for the purposes of subsection (1) (b), a notice referred to in that paragraph shall be in or to the effect of that form.

**Notice of death following injury.**

87. Where—

- (a) an accident causing serious bodily injury is notified under section 86 in respect of a mine; and
- (b) a person injured as a result of the accident dies after the notification is given,

notice of the death shall, as soon as it comes to the knowledge of the manager of the mine, be given by him to the district inspector and the district check inspector.

**Accidents involving persons not employed by the owner of a mine.**

88. Where—

- (a) a person employed at a mine dies or suffers serious bodily injury as a result of an accident at the mine; and
- (b) the owner of the mine is not the actual employer of that person,

the actual employer shall immediately report the accident to the manager of the mine.

**Notification of dangerous occurrences.**

89. (1) Where there is a dangerous occurrence at a mine, whether death or serious bodily injury is caused or not, the manager of the mine shall—

- (a) forthwith give oral notice of the dangerous occurrence to the district inspector and to the district check inspector; and

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- (b) within 24 hours next after the occurrence send a written notice to the district inspector and to the district check inspector stating the nature of the occurrence.

(2) If a form is approved for the purposes of subsection (1) (b), a notice referred to in that paragraph shall be in or to the effect of that form.

**Place of accident, etc., not to be disturbed.**

90. (1) Subject to subsection (2), where there is at a mine—

- (a) an accident causing death or serious bodily injury; or  
(b) a dangerous occurrence,

no person shall disturb, or direct another person to disturb, the place of the accident or dangerous occurrence, or tamper with anything at that place, before—

- (c) the expiration of 2 clear days after the first notification of the accident or dangerous occurrence is given in accordance with this Division; or  
(d) that place has been visited by both an inspector and check inspector,

whichever first occurs.

(2) Nothing in subsection (1) shall prohibit—

- (a) the doing of anything by or with the consent of an inspector; or  
(b) the doing of anything necessary for ensuring the safety of the mine or any part of the mine or of any persons at the mine.

**Inspectors to visit mine as soon as practicable.**

91. The inspector and check inspector to whom notice of an accident or a dangerous occurrence at a mine has been given under this Division shall visit the mine as soon as practicable after receipt of the notice and complete their examinations and inspections as expeditiously as the circumstances permit.

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**Location and nature of accidents to be recorded.**

92. (1) The manager of a mine shall cause a notation to be made on the plan of the mine kept in accordance with the regulations indicating the location of any accident at the mine causing death or serious bodily injury.

(2) The manager of a mine shall record the nature of any accident at the mine causing death or serious bodily injury in a book of an approved type kept by him at the mine.

*DIVISION 6.—Investigation of accidents and dangerous occurrences.***Interpretation.**

93. In this Division, “dangerous occurrence” and “serious bodily injury” have the same meaning as in Division 5.

**Minister may require special reports.**

94. Where there is at a mine—

- (a) an accident causing death or serious bodily injury; or
- (b) a dangerous occurrence,

the Minister may—

- (c) at that time or some later time direct an inspector to make a special report with respect to the accident or dangerous occurrence; and
- (d) if he thinks fit, cause the report to be made public at such time and in such manner as he thinks fit.

**Minister may direct the court to hold a formal investigation.**

95. (1) Where it appears to the Minister that a formal investigation of any—

- (a) accident causing death or serious bodily injury at a mine and its causes and circumstances;



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- (b) dangerous occurrence at a mine and its causes and circumstances;  
or
- (c) practice at a mine which, in the opinion of the Minister, adversely affects or is likely to adversely affect the safety or health of persons employed at the mine,

is necessary, the Minister may direct a court to hold the investigation.

(2) Where a court is directed under subsection (1) to hold an investigation in respect of an accident, a dangerous occurrence or a practice at a mine, it shall hold the investigation—

- (a) in open court; and
- (b) in such manner and under such conditions as the court may think most effectual for—
  - (i) ascertaining the causes and circumstances of the accident or dangerous occurrence; or
  - (ii) determining whether the practice adversely affects or is likely to adversely affect the safety or health of persons employed at the mine,

and enabling the court to make its report to the Minister as required by section 98.

**Powers of court.**

96. A court shall have, for the purpose of an investigation under this Division, all the powers of an inspector under this Act and, in addition, the following powers:—

- (a) by summons signed by the court, to require the attendance of such persons as it thinks fit to call before it and examine;
- (b) to require answers or returns to such inquiries as it thinks fit to make;
- (c) to require the production of such books, papers, plans and documents as it thinks fit;
- (d) to require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

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**Witnesses' expenses.**

**97. (1)** Persons attending as witnesses at an investigation held by a court under this Division shall be allowed such expenses as would be allowed to witnesses attending before the Supreme Court in its common law jurisdiction.

**(2)** In the case of a dispute as to the amount of expenses to be allowed under subsection (1), the matter shall be referred by the court to the Prothonotary, who, on a request signed by the court, shall ascertain and certify the proper amount of the expenses.

**Report to Minister.**

**98.** A court shall, upon the holding of an investigation under this Division in respect of an accident, a dangerous occurrence or a practice at a mine, make a report to the Minister, stating—

- (a) the causes of the accident or dangerous occurrence and its circumstances; or
- (b) its findings in relation to the practice,

as the case may require, and adding any observations which the court thinks right to make.

**Costs of investigation.**

**99.** All expenses incurred in, or in connection with, an investigation under this Division (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Minister in the execution of this Act.

**Offences.**

**100.** A person shall not, without reasonable excuse (proof whereof shall lie on him), either—

- (a) fail, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this Division; or

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(b) prevent or impede a court in the execution of its duty.

Penalty: \$500.

DIVISION 7.—*Rules and schemes.*

**Transport rules.**

**101. (1)** The manager of a mine shall make rules (to be known as “transport rules”), not inconsistent with this Act, with respect to the use of vehicles at the mine.

**(2)** Without limiting the generality of subsection (1), the manager of a mine shall, under that subsection—

- (a) if the mine is an underground mine—make transport rules with respect to such matters as are prescribed for the purposes of this paragraph; and
- (b) if the mine is an open cut mine—make transport rules with respect to such matters as are prescribed for the purposes of this paragraph.

**Support rules.**

**102. (1)** The manager of an underground mine shall make rules (to be known as “support rules”), not inconsistent with this Act, with respect to the support of the roof and sides of working places and roadways in the mine.

**(2)** Where support of the roof and sides of working places and roadways in an underground mine is to be removed under the system of mining in use at the mine, the manager of the mine shall include in the rules made under subsection (1) rules, not inconsistent with this Act, for the removal of that support.

**(3)** Without limiting the generality of subsections (1) and (2), the manager of a mine shall—

- (a) under subsection (1)—make support rules with respect to such matters as are prescribed for the purposes of this paragraph; and
- (b) under subsection (2)—make support rules with respect to such matters as are prescribed for the purposes of this paragraph.

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**Schemes for the testing of electrical or mechanical apparatus.**

**103. (1)** The manager of a mine shall prepare a scheme for the systematic examination or testing of electrical apparatus and mechanical apparatus at the mine.

**(2)** Without limiting the generality of subsection (1), the manager of a mine shall include in a scheme prepared under that subsection provisions with respect to such matters as are prescribed for the purposes of this subsection.

**Other rules or schemes.**

**104. (1)** Regulations may be made requiring the manager of a mine to make rules or prepare a scheme in relation to any subject-matter which—

- (a) concerns the safety, health, conduct or discipline of persons in mines; and
- (b) is prescribed for the purposes of this section,

not being a subject-matter in respect of which rules are required to be made or a scheme prepared under any other provision of this Act.

**(2)** Without limiting the generality of subsection (1), the manager of a mine shall, in respect of a subject-matter prescribed under subsection (1)—

- (a) make, under that subsection, rules with respect to such matters as are prescribed for the purposes of this paragraph in respect of that subject-matter; or
- (b) include in a scheme prepared under that subsection provisions with respect to such matters as are prescribed for the purposes of this paragraph in respect of that subject-matter,

as the case may require.

**Copies of rules and schemes to be sent to the district inspector.**

**105. (1)** The manager of a mine shall send to the district inspector within 7 days of—

- (a) making any rules, or any alteration thereto, under this Division; or

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(b) preparing a scheme, or any alteration thereto, under this Division, a copy of the rules, scheme or alteration.

(2) A district inspector shall, within 28 days of the receipt of rules, a scheme or an alteration sent to him by the manager of a mine under subsection (1)—

- (a) serve on the manager a notice confirming the rules, scheme or alteration; or
- (b) take action under section 106 in respect of the rules, scheme or alteration.

**District inspector may require changes to rules and schemes.**

**106.** If a district inspector is of the opinion that, in respect of any rules or a scheme made or prepared under this Division for a mine—

- (a) provision ought to be made in those rules or that scheme for any matter for which provision is not made; or
- (b) that a provision different from a provision of those rules or that scheme ought to be made,

he may serve on the manager of the mine a notice—

- (c) stating that he is of that opinion; and
- (d) requiring the manager, before the expiration of such period as is specified in the notice, to take such action to change those rules or that scheme as is specified in the notice.

**Appeal to Chief Inspector.**

**107. (1)** The manager of a mine may, within 14 days of the service on him of a notice under section 106, appeal to the Chief Inspector against the notice.

(2) The Chief Inspector shall, within 21 days of the receipt of an appeal under subsection (1), revoke, vary or confirm the notice appealed against.

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**Appeal to court (support rules).**

**108. (1)** The manager of a mine who is dissatisfied with any decision of the Chief Inspector in respect of support rules or alterations thereto may, within 14 days of being notified of the decision, appeal to a court against the decision.

**(2)** A court may revoke, vary or confirm a notice under section 106 in respect of which an appeal has been made under subsection (1).

**Manager to comply with notice.**

**109.** The manager of a mine served with a notice under section 106 shall—

- (a) unless he appeals under section 107 or sections 107 and 108 against the notice, comply with the notice; and
- (b) if he appeals under section 107 or sections 107 and 108 against the notice and the notice is not revoked by the Chief Inspector or a court, comply with the notice or the notice as varied by the Chief Inspector or a court, as the case may be.

**Date of effect of rules or schemes.**

**110.** Any rules or a scheme made or prepared under this Division, or an alteration thereto, in respect of a mine shall take effect—

- (a) from the date that is 7 days after the date of service of a notice of confirmation under section 105 (2) (a) in respect thereof; or
- (b) where—
  - (i) a notice in respect thereof is served on the manager of the mine under section 106; and
  - (ii) the notice is revoked by the Chief Inspector or a court on appeal under section 107 or 108,

from the date that is 7 days after the date of revocation of the notice.

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**Copies of rules and schemes to be available.**

**111. (1)** A copy of all rules and schemes made or prepared under this Division for the time being in force in respect of a mine shall be kept by the manager of the mine at the office of the mine and be made available for inspection by persons employed at the mine.

**(2)** The manager of a mine shall cause notices containing a summary of so much of the rules or schemes made or prepared under this Division as affects any person to be kept exhibited at suitable places at the mine so that they may be easily seen and read by that person.

**(3)** The manager of an underground mine shall cause copies of all support rules in force in respect of a mine—

(a) to be kept exhibited—

(i) at the surface of the mine in such a position as to be easily seen and read by the persons employed at the mine; and

(ii) at the deputy's station for the district in which the mine is situated in such a position as to be easily seen and read by any persons attending the station; and

(b) to be supplied to such persons employed at the mine who, in his opinion, have need to refer to them in the performance of their duties.

**Officials and other persons to comply with rules and schemes.**

**112.** Any official or other person employed at a mine shall comply with the rules and schemes made or prepared under this Division in force in respect of the mine.

**Form of rules or schemes.**

**113.** Rules or schemes made or prepared under this Division—

(a) shall be in such form; and

(b) shall be made or prepared subject to such qualifications, as may be prescribed.

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DIVISION 8.—*Training rules.***Manager of mine to ensure that employees undertake training.**

**114.** The manager of a mine shall ensure that persons employed or to be employed at the mine undertake training in accordance with the provisions of—

- (a) any training scheme approved by the Joint Coal Board in respect of the mine pursuant to any order made or given by the Joint Coal Board; and
- (b) any training rules made pursuant to section 115.

**Making of training rules.**

**115.** Where the Minister is of the opinion that further provisions should be made for the training and instruction of persons employed or to be employed at a mine in addition to the provisions of any training scheme approved by the Joint Coal Board in respect of the mine pursuant to an order made or given by the Joint Coal Board, he may direct the manager of the mine to make training rules to include those further provisions.

**Appeal to court.**

**116.** Where a manager of a mine objects to complying with any direction given by the Minister pursuant to section 115, he may, within 21 days of service of the direction, appeal to a court.

**Copy of training schemes to be sent to the district inspector.**

**117.** The manager of a mine shall forward a copy of any training scheme referred to in section 114 (a) in respect of the mine and any amendments thereto to the district inspector within 28 days of the training scheme's being approved by the Joint Coal Board.



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**Copy of training rules to be sent to the district inspector.**

**118.** The manager of a mine shall forward a copy of any training rules made in pursuance of section 115 to the district inspector within 7 days of the making thereof.

**Training certificates.**

**119. (1)** A record of the training given to a person at a mine under a training scheme or training rules referred to in this Division shall be kept by the manager of the mine at the office of the mine until the expiration of a period of 12 months after the termination of that person's employment.

**(2)** The manager of a mine may, at the request of a person employed, or formerly employed, at the mine issue to that person a certificate indicating that the person has been given the training specified in the certificate.

**Employees to comply with training rules.**

**120.** Any persons employed at a mine who are required to undertake training by the training rules for that mine shall comply with those rules.

*DIVISION 9.—Closing of shafts and outlets in abandoned mines.***Closing of shafts and outlets.**

- 121. (1)** The owner of a mine shall—
- (a) cause the surface entrance to every shaft or outlet at the mine which is not being used to be provided, within 30 days of the cessation of use, with an enclosure, barrier, plug or seal and cause that enclosure, barrier, plug or seal to be properly maintained; and
  - (b) prior to the abandonment of the mine cause the surface entrance to every shaft or outlet thereof to be provided with an approved enclosure, barrier, plug or seal.

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(2) Where the owner of a mine is not the occupier of the land on which work is required to be carried out under subsection (1), the owner of the mine shall give reasonable notice to the occupier of the land before causing the work to be carried out.

**Obstruction of owner of mine.**

122. An occupier of land or other person shall not wilfully obstruct the owner of a mine or any other person in doing any act required to be done by or under section 121 (1).

**Certain unenclosed shafts or outlets to be public nuisances.**

123. Any shaft or outlet of a mine which is not provided with an enclosure, barrier, plug or seal as required by section 121 and which—

- (a) is within 50 metres of any highway, road, footpath or place of public resort; or
- (b) is in open or unenclosed land,

shall be deemed to be a public nuisance for the purposes of section 288 of the Local Government Act, 1919.

**Owners of land on which abandoned mines are situated may be required to close shafts and outlets.**

124. (1) The Minister may cause to be served on the owner of land on which is situated any shaft or outlet of an abandoned mine, which shaft or outlet is not provided with an approved enclosure, barrier, plug or seal, a direction requiring that owner to erect an approved enclosure, barrier, plug or seal within the period specified in the direction.

(2) A person to whom a direction is given under subsection (1) shall comply with the direction.

(3) If a person to whom a direction is given under subsection (1) does not comply with the direction within the period specified in the direction, the Minister may cause the work specified in the direction to be carried out.

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(4) Any costs or expenses incurred by the Minister under subsection (3) in carrying out any work specified in a direction given under subsection (1) shall be a debt due to the Crown by the person to whom the direction was given and shall be recoverable in a court of competent jurisdiction.

(5) In any proceedings instituted for the recovery from a person of a debt due by that person to the Crown under subsection (4), a certificate of the Minister that a specified amount is the amount of the debt so due shall be evidence of that fact.

(6) A debt due by any person to the Crown under subsection (4) is recoverable notwithstanding that that person is convicted of an offence under subsection (2).

(7) A person to whom a direction is given under subsection (1), or any person authorised by the Minister for the purposes of subsection (3), may, upon giving reasonable notice to the occupier of the land, enter on or remain on any land for the purpose of complying with the direction or with subsection (3), as the case may require.

(8) This section does not apply to the owner of land on which is situated—

- (a) a mine abandoned before the commencement of this section; or
- (b) a mine the subject of a concession under the Coal Mining Act, 1973.

DIVISION 10.—*Control of emplacement areas.*

**Interpretation.**

125. (1) In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

“emplacement area” means—

- (a) any pile, heap, hole, excavation or place in which or on which reject (whether in a solid state or in a solution or suspension) is piled, heaped, dumped, accumulated, deposited or placed; and

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- (b) any wall or other structure which retains or confines reject, whether or not that wall or structure is itself composed of reject,

but does not include an accumulation or deposit of reject situated underground;

“owner”, in relation to an emplacement area, means the occupier of any land on which the emplacement area is situated, whether the emplacement area is in use or not;

“reject” means any carbonaceous material, whether it is mixed with or attached to stone or not, which is left after the treatment of coal in a coal preparation plant or which is not dealt with as coal by the owner of a mine.

(2) For the purposes of this Division, an emplacement area—

- (a) shall be deemed to be in use if its use has not been discontinued pursuant to section 127 (1) or 128 (5); and
- (b) shall be deemed to be kept secure if—
- (i) it is not unstable;
  - (ii) it is not on fire; and
  - (iii) no noxious water is escaping from it.

### **Establishment of emplacement areas.**

**126. (1)** A person shall not establish any emplacement area after the commencement of this Division except with the approval of the Minister and in such manner and subject to such conditions as he may determine.

(2) The Minister’s approval under subsection (1) may be granted without limit as to time or may be for a specified period.

(3) A person applying for the Minister’s approval under this section shall furnish such information, documents and plans as the Minister may require.

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**Discontinuance of use of emplacement areas.**

**127. (1)** A person who has established an emplacement area pursuant to an approval granted under section 126 shall not discontinue to use that emplacement area without the Minister's approval.

**(2)** Notwithstanding the provisions of subsection (1), the district inspector may grant approval to cease using an emplacement area established pursuant to an approval granted under section 126 for a period not exceeding 6 months subject to such conditions as he may determine.

**(3)** A person shall not re-commence using an emplacement area which he has ceased using by virtue of an approval granted under subsection (2) without the consent of the district inspector.

**Emplacement areas in use at the commencement of this Division.**

**128. (1)** The owner of an emplacement area in use at the commencement of this Division who intends to discontinue using that area for a period in excess of 6 months shall notify the district inspector of his intention to do so and shall furnish him with such particulars as may be prescribed.

**(2)** A district inspector who has been notified under subsection (1) by the owner of an emplacement area may direct the owner to carry out such steps as may be specified for the purpose of making the area secure.

**(3)** The owner of an emplacement area established before the commencement of this Division which has not been in use for a period (commencing before or after that commencement) in excess of 6 months, or to which a notice under subsection (4) applies, shall not use that area without the consent of the district inspector.

**(4)** The district inspector may, by notice served on the owner of an emplacement area established before the commencement of this Division which has not been in use for a period (commencing before or after that commencement) in excess of 6 months, declare that area to be no longer in use.

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(5) The Minister may, by notice served on the owner of an emplacement area established before the commencement of this Division, direct that that area be no longer used after a date specified in the notice and that the owner take such steps as may be specified for the purpose of making the area secure.

**Construction and use of emplacement areas.**

**129.** (1) This section applies to emplacement areas whether established before or after the commencement of this Division.

(2) An emplacement area shall—

- (a) be constructed, or the construction thereof shall be continued, as the case may be, in accordance with sound engineering practice;
- (b) be compatible with the environment; and
- (c) be kept secure.

(3) The owner of an emplacement area shall take such steps as may be necessary to ensure that he is at all times in possession of all information relevant to the performance of his duties under this section.

(4) The district inspector may, by notice served on the owner of an emplacement area, require the owner, whether the emplacement area is in use or not, to carry out such tests relating to the safety and security of the emplacement area as he may specify in the notice.

(5) The owner of an emplacement area shall furnish to the district inspector the results of any tests carried out in compliance with subsection (4).

(6) The district inspector may, by notice served on the owner of an emplacement area which is in use, require him to furnish plans of the emplacement area and plans of future dumping operations.

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**Tipping rules.**

**130. (1)** The owner of an emplacement area which is in use shall make rules (to be known as "tipping rules"), not inconsistent with this Act or any directions which the Minister or the district inspector may make or give under this Act, which shall specify the manner in which reject is to be deposited on or in the emplacement area and the nature of reject to be so deposited.

**(2)** The provisions of sections 105, 106, 107, 109 and 110 apply to rules made under subsection (1) in the same way as they apply to rules in respect of mines under Division 7.

**(3)** For the purposes of subsection (2), a reference in sections 105, 106, 107, 109 and 110 to the manager of a mine shall be deemed to be a reference to the owner of an emplacement area.

**Appeal to court against Minister's decision.**

**131.** Where a person is dissatisfied with any decision of, or any direction given by, the Minister under this Division, he may, within such period as may be prescribed, appeal to a court against that decision or direction.

**Objections to Chief Inspector against inspector's requirements.**

**132. (1)** Where the owner of an emplacement area objects to complying with any notice given by a district inspector pursuant to this Division (other than a notice for the purposes of section 129 (6)), he may, within 21 days of the service of the notice, object to the Chief Inspector in writing giving the reasons for his objection.

**(2)** On receipt of an objection referred to in subsection (1), the Chief Inspector may revoke, confirm or amend any notice given or requirement made therein by the district inspector.

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**Date of effect of decisions, etc.**

**133.** Where there is a right of appeal or objection against a decision or notice under this Division, the decision or notice shall take effect—

- (a) where no appeal or objection is lodged within the period prescribed—  
—from the expiration of that period; or
- (b) where an appeal or objection is lodged and the decision or notice is not revoked—  
—from the date of the final decision made on that appeal or objection,

and, if varied or amended on appeal or objection, shall take effect as varied or amended.

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**PART V.****OPERATION OF MINES.****DIVISION 1.—*Notice of operations, etc.*****Notice of commencement, discontinuance, etc., of operations.**

**134. (1)** The owner of a mine shall, in respect of the mine, give notice in writing to the district inspector of—

- (a) the commencement of operations for the purposes of opening of an underground mine or a seam therein;
- (b) the abandonment of an underground mine or a seam therein;
- (c) the discontinuance of operations at an underground mine or in a seam therein;
- (d) the fact that an underground mine or a seam therein has not been worked for a period of 2 months;
- (e) the resumption of the working of an underground mine or a seam therein which has not been worked for a period of 2 months;
- (f) the discontinuance of the use of a shaft or outlet of an underground mine;



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- (g) the resumption of the use of a shaft or outlet of an underground mine;
- (h) the commencement of operations for the purposes of opening an open cut mine or a seam therein;
- (i) the abandonment of an open cut mine;
- (j) the discontinuance of operations at an open cut mine;
- (k) the fact that an open cut mine has not been worked for a period of 2 months; and
- (l) the resumption of the working of an open cut mine or a seam therein which has not been worked for a period of 2 months.

(2) A notice under subsection (1) in respect of an event specified in paragraph (a)–(c), (e)–(j) or (l) of that subsection shall be given within 14 days of the happening of the event.

(3) A notice under subsection (1) in respect of a fact specified in paragraph (d) or (k) of that subsection shall be given within 14 days after the expiration of the period of 2 months referred to in that paragraph in relation to that fact.

**Drilling of boreholes.**

**135.** (1) Subject to subsection (4), any person who, at a mine, proposes to drill a borehole, or extend an existing borehole, for the purpose of proving coal shall, before commencing work, notify the Chief Inspector of his intention to do so and furnish to him particulars of the location of the borehole.

(2) A person referred to in subsection (1) shall furnish such additional particulars in relation to a borehole as the Chief Inspector may require.

(3) A requirement under subsection (2) may be made either before or after the commencement of the work to which the requirement relates.

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(4) This section does not apply to boreholes put down to determine—

- (a) the extent of overburden; or
- (b) the thickness and quality of coal,

for the purpose of open cut workings where the occurrence of coal has previously been proved.

### **Cores and samples.**

**136. (1)** Subject to subsection (6), where a person obtains a core in the course of drilling any borehole to which section 135 applies, the core (except any material used for analysis) and any samples obtained therefrom shall be labelled and properly stored by the person on the completion of the borehole.

(2) Cores and samples labelled and stored as required under subsection (1) shall at all times be available for examination by an inspector or an officer of the Department of Mineral Resources.

(3) Portions of cores or samples labelled and stored as required under subsection (1) may be taken by an inspector or officer referred to in subsection (2) for the purpose of analysis or other examination.

(4) Any information obtained by any person as the result of any action taken under subsection (2) or (3) shall not be made public without the consent of the person carrying out the drilling from which the cores or samples were obtained unless the Chief Inspector directs otherwise.

(5) If a person who has obtained cores or samples in the course of drilling any borehole to which section 135 applies proposes to dispose of the cores or samples—

- (a) he shall advise the Chief Inspector in writing; and
- (b) the Chief Inspector may take possession of the cores and samples within 28 days after being given that notice.

(6) This section does not apply to boreholes or sections of boreholes sunk in surface gravel or alluvial ground.

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**Backfilling or sealing of boreholes.**

- 137.** Where any borehole to which section 135 applies is—
- (a) drilled from the surface or from underground—it shall, upon completion, be completely backfilled with material of an approved type unless otherwise directed by the Chief Inspector; or
  - (b) drilled from under water—it shall, upon completion, be sealed completely in the presence of an officer authorised by the Chief Inspector.

*DIVISION 2.—Methods or systems of working mines.***Bord and pillar system to be used in underground mines.**

**138. (1)** No method of mining other than the bord and pillar system shall be used in an underground mine except with the approval of the Minister given on the recommendation of the Chief Inspector and subject to such conditions as he may impose.

**(2)** Where the bord and pillar system of mining is used—

- (a) the pillars shall be of such dimensions as may be prescribed;
- (b) the width of the roadways, bords, cut-throughs, headings and pillar splits shall not exceed the prescribed width;
- (c) the Chief Inspector may approve or direct a variation in the dimensions of pillars;
- (d) the Chief Inspector may approve or direct a variation in the width of the roadways, bords, cut-throughs, headings or pillar splits; and
- (e) pillars shall not be removed except with the approval in writing of the Minister and subject to such conditions as he may impose.

**(3)** For the purposes of this section, a pillar shall be deemed to have been removed if its dimensions are reduced to less than—

- (a) the prescribed dimensions; or

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- (b) such other dimensions as the Chief Inspector has approved or directed pursuant to subsection (2) (c).

**Barriers and protective pillars.**

**139. (1)** The owner of a mine shall not mine or cause to be mined any seam of coal in the mine without leaving a barrier of the specified width—

- (a) against the external boundaries of the colliery holding in which the mine is situated;
- (b) against any outcrop of the seam; and
- (c) between any underground workings and any open cut working situated within the colliery holding in which the mine is situated.

**(2)** For the purpose of subsection (1), the specified width is 20 metres or such other distance as the Minister may specify in a direction given to the owner, the superintendent or the manager of the mine.

**(3)** The Minister, on the recommendation of the Chief Inspector, may direct the owner, the superintendent or the manager of a mine to—

- (a) leave in the mine a barrier of such width as is specified in the direction against the mean high water mark of tidal waters; and
- (b) leave in the mine a protective pillar of such dimensions as are specified in the direction against surface improvements or features, whether natural or artificial, including mine workings, whether discontinued or otherwise.

**(4)** In making a direction under subsection (2) or (3), the Minister—

- (a) may fix the width of a barrier in respect of any seam or portion of a seam within a mine and specified in the direction or in respect of all the seams within a mine or all seams within a mine other than those so specified; and
- (b) shall so fix the width of a barrier in respect of any seam so that a barrier of not less than 40 metres shall be maintained between workings of adjacent mines.

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(5) Where any workings in a mine encroach on any barrier or protective pillar required to be provided pursuant to—

- (a) this section; or
- (b) any conditions contained in any lease granted under the Coal Mining Act, 1973,

the Minister may, if the Chief Inspector recommends that it is necessary to do so in order to ensure the safety of the employees in the mine or in any mine adjoining the mine, direct the owner, the superintendent or the manager of the mine to carry out such works as the Minister thinks fit within the time specified in the direction.

(6) The Minister may, on the recommendation of the Chief Inspector, grant approval, subject to such conditions as he considers necessary, to the manager of a mine to mine any barrier or protective pillar provided pursuant to this section.

**Seams liable to spontaneous combustion.**

**140.** (1) Where a seam in any mine or part thereof gives, or has given, evidence of being liable to spontaneous combustion, no person shall mine that seam in that mine except with the approval of the Chief Inspector and subject to such conditions as he considers necessary.

(2) Where, in a mine or part thereof, a seam which the Chief Inspector believes may be liable to spontaneous combustion is to be mined, he may cause to be served on the owner, the superintendent or the manager of the mine a notice specifying conditions under which that seam may be mined in that mine or part thereof.

(3) Where a mine or part thereof has been sealed off on account of self-heating or a fire—

- (a) the mine or part thereof shall not be re-entered or any seal broken unless notice of intention to do so has been given in writing to the district inspector and a check inspector at least 48 hours before the re-entry or breaking is effected; and

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- (b) in a case where part of a mine has been sealed off, any re-entry to that part of the mine shall be made at a time when there is a minimum number of persons in the mine.

(4) Where the Chief Inspector refuses to give his approval under subsection (1) in respect of a mine or the owner, the superintendent or the manager of the mine is dissatisfied with any conditions imposed under that subsection or subsection (2), the owner, the superintendent or the manager may appeal to a court against the refusal or the imposition of the conditions.

**Methane drainage system.**

141. (1) Where the Chief Inspector is of the opinion that it is desirable for the safer operation of a mine, he may, by notice in writing served on the manager of the mine, direct the establishment of a methane drainage system at the mine.

(2) A methane drainage system directed to be established in a notice served under subsection (1) shall comply with such conditions as to its design and operation as the Chief Inspector may specify in the notice.

(3) The Chief Inspector may by notice in writing served on the manager of a mine direct that safety precautions specified in the notice be taken in the disposal of methane recovered from the mine by means of a methane drainage system.

(4) Where the manager of a mine objects to complying with any direction under this section or any conditions imposed by the Chief Inspector, he may within 14 days of the service of the notice under subsection (1) or (3), as the case may be, appeal to a court against the direction or the imposition of the conditions.

**DIVISION 3.—Prospecting operations.****Interpretation.**

142. In this Division—

“drilling operations” means any drilling operations carried out in the course of searching for coal, and includes the preparation and restoration of drill sites;

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“prospecting area” means any land on which prospecting operations are carried on and which is subject to an authorisation or a concession granted under the Coal Mining Act, 1973, other than land on which is situated a mine;

“registered holder”, in relation to a prospecting area, means the person registered as the holder of an authorisation or concession granted under the Coal Mining Act, 1973, in respect of that area.

**Notification of commencement of drilling operations.**

**143.** The registered holder of a prospecting area shall, not less than 7 days before the commencement of drilling operations on the area, notify the district inspector in writing of the proposed date of commencement of the drilling operations and advise the district inspector of—

- (a) particulars of the operations to be carried out;
- (b) the location of the prospecting operations; and
- (c) the name of the person appointed as supervisor of the prospecting area in accordance with section 144.

**Supervisors of prospecting areas.**

**144. (1)** Subject to subsection (2), the registered holder of a prospecting area shall appoint a competent person to be supervisor of the prospecting area.

**(2)** A registered holder of a prospecting area who is an individual may nominate himself as supervisor of the prospecting area instead of appointing a person under subsection (1).

**(3)** The supervisor of a prospecting area shall, for the purposes of this Act, have full charge and control of all persons employed, and of all prospecting operations, in the prospecting area and shall enforce the observance, by persons employed in the prospecting area, of this Act, the regulations, the rules and any schemes made thereunder.

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**Application of the provisions of this Act or the regulations to prospecting areas.**

**145.** The Governor may make regulations providing that such of the provisions of this Act or the regulations—

(a) as may be prescribed; or

(b) as may be prescribed with such modifications as may be prescribed, shall apply to and in respect of prospecting areas in the same way, subject to such modifications as may be prescribed, as they apply to mines.

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**PART VI.****REGULATION OF TOURIST AND EDUCATIONAL ACTIVITIES IN MINES.****Interpretation.**

**146.** In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“mine” means—

- (a) a mine as defined in section 5 which is not the subject of a coal lease under the Coal Mining Act, 1973; or
- (b) an abandoned mine which was formerly a mine as defined in section 5 and which is not the subject of such a lease;

“owner”, in relation to an abandoned mine, means the occupier of the land on which the abandoned mine is situated;

“permit” means a permit which has been issued under section 148 and which has not been revoked under section 149.



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**Tourist activities in mines or use of mines for educational purposes not allowed without a permit.**

**147.** 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 are, or the use of the mine principally for educational purposes 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.**

**148. (1)** The Minister may, upon application being made to him in writing, issue a permit to the owner of a mine which—

- (a) authorises tourist activities to be conducted in or about the mine; or
- (b) authorises the mine to be used principally for educational purposes,

subject to such conditions as the Minister may specify in the permit.

**(2)** A permit shall not be issued under this section in respect of a mine unless the Minister is satisfied that all necessary precautions will be taken to protect the safety or health of persons entering the mine.

**Revocation or variation of permits.**

**149. (1)** The Minister may—

- (a) revoke a permit where a condition to which the permit is subject is breached or where the Minister is satisfied that persons cannot enter the mine to which the permit relates without risk to their safety or health; or

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

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

(3) A revocation of a permit, a variation of conditions to which a permit is subject or the attachment of conditions or additional conditions to a permit does not take effect until notice of the revocation, variation or attachment is served on the owner of the mine to which the permit relates.

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PART VII.

LEGAL PROVISIONS.

DIVISION 1.—*Court of Coal Mines Regulation.*

**Constitution of a Court of Coal Mines Regulation.**

**150.** (1) The Governor may appoint a Judge of the District Court to sit as a Court of Coal Mines Regulation.

(2) Several Judges of the District Court may be appointed under subsection (1) to sit as several Courts of Coal Mines Regulation.

(3) Persons performing functions as officers of the District Court shall perform similar functions at, or in connection with, a Court of Coal Mines Regulation when required to do so by such a court.

**Assessors.**

**151.** (1) A court, when exercising the jurisdiction specified in section 152 (1) (a) or (d), shall sit with an assessor or 2 or more assessors appointed in accordance with the rules of court.

(2) An assessor sitting with a court as referred to in subsection (1) shall have the power to advise the court but not to adjudicate on any matter before the court.

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(3) A court has the right to consult, either collectively or individually and either in public or in private, with assessors sitting with it.

(4) Fees payable to assessors under the rules of court shall be paid out of money provided by Parliament.

**Jurisdiction of court.**

**152.** (1) A court shall, in addition to any other function conferred or imposed upon it by or under this or any other Act, have power to hear and determine—

- (a) matters arising from statements filed with the court under section 26;
- (b) in a summary manner, proceedings for offences against Division 2 of Part IV;
- (c) applications for orders made under section 68; and
- (d) appeals made to the court under this Act,

and to carry out, and make determinations in respect of, investigations under section 95.

(2) A court may make such orders as are necessary to give effect to its determinations.

(3) An offence against Division 2 of Part IV shall be dealt with by a court in accordance with the provisions of the Supreme Court (Summary Jurisdiction) Act, 1967, as if references in that Act to the Supreme Court were references to a court and references in that Act to rules were references to rules made under section 155.

(4) A court, when exercising the jurisdiction specified in subsection (1) (d), shall have power to revoke, vary or confirm any decision or direction appealed against.

(5) Subject to section 154, a determination or an order of a court shall be final and conclusive and shall not be liable to appeal or review.

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**Proceedings of court.**

**153. (1)** A court carrying out an investigation under section 95 may be assisted by a barrister or solicitor appointed by the court for that purpose.

**(2)** For the purposes of exercising its jurisdiction under this Act, a court shall have, in relation to summoning parties and compelling the attendance of witnesses and the production of documents, the same powers as the District Court.

**(3)** Subject to this Act, any person affected or liable to be affected by proceedings before a court may appear before, and shall be entitled to be heard by, the court.

**(4)** The Minister, the Chief Inspector, an inspector and an organisation or association representative of mining employers or employees may appear before, and shall be entitled to be heard by, a court dealing with a matter under this Act.

**(5)** The awarding of costs in any proceedings before a court shall be in the discretion of the court.

**(6)** The decision of a court in any proceedings under this Act shall be delivered in open court.

**Appeals from court.**

**154. (1)** A party to any proceedings before a court, other than proceedings arising under Division 2 of Part IV or section 95, may, on a question of law—

- (a) appeal to the Supreme Court against a decision given in those proceedings; or
- (b) with the leave of the court, appeal to the Supreme Court during those proceedings.

**(2)** A person convicted by a court of an offence against Division 2 of Part IV may appeal to the Court of Criminal Appeal pursuant to the Criminal Appeal Act, 1912.

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(3) In any proceedings under Division 2 of Part IV, the Crown may, pursuant to the Criminal Appeal Act, 1912, submit any question of law arising at or in reference to the proceedings to the Court of Criminal Appeal.

(4) A party to any proceedings under section 68 may appeal to the Supreme Court against a decision given by a court in those proceedings.

**Rules of court.**

155. (1) The Judges of the District Court or any 3 of them may make rules regulating the procedure and practice of Courts of Coal Mines Regulation.

(2) Rules made under subsection (1) shall make provisions for or with respect to—

- (a) the appointment as assessors of persons having practical experience in coal mining in New South Wales;
  - (b) the nomination, by persons interested in proceedings before a court, of persons to be appointed as assessors;
  - (c) the number of persons to be appointed assessors in any proceedings; and
  - (d) the fees to be paid to persons appointed as assessors,
- for the purposes of section 151 (1).

(3) A rule may be made so as to apply differently according to such factors as may be specified in the rule.

(4) A rule shall—

- (a) be published in the Gazette;
- (b) take effect on and from the date of publication or a later date specified in the rule; and
- (c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

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(5) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a rule has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

(6) For the purposes of subsections (4) and (5), sitting days shall be counted, whether or not they occur during the same session.

(7) Judicial notice shall be taken—

- (a) of a rule made or purporting to have been made under this section and published in the Gazette; and
- (b) of the date of its publication.

(8) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule have been complied with and performed.

*DIVISION 2.—Offences and proceedings for offences.*

**Where proceedings taken.**

**156. (1)** Proceedings for an offence against this Act, Division 2 of Part IV excepted, the regulations, the rules or a scheme shall be disposed of summarily before a court of petty sessions presided over by a stipendiary magistrate.

(2) Proceedings for an offence against Division 2 of Part IV shall be disposed of summarily before a Court of Coal Mines Regulation.

**Time for taking proceedings.**

**157. (1)** Subject to subsections (2) and (3), an information in respect of an offence against this Act, the regulations, the rules or a scheme shall be laid within 6 months after the time when the offence was alleged to be committed.

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(2) Where, in respect of an accident or other occurrence in a mine—

- (a) an inspector makes a special report under section 94;
- (b) a court makes a report under section 98; or
- (c) a coroner's inquest is held,

and it appears from the report or the proceedings at the inquest that an offence has been committed against this Act, the regulations, the rules or a scheme, an information in respect of the offence may be laid within 6 months after the time when the report was made or the inquest was concluded, as the case may be.

(3) An information in respect of an offence against section 62 (e), 138, 139 or 140 shall be laid within 2 years after the time when the offence was alleged to be committed.

**Continuing offences.**

**158.** Where an offence is committed against this Act, the regulations, the rules or a scheme by reason of a failure to give a notice, enter a report or do any other thing at a time or within a period specified in this Act, the regulations, the rules or a scheme or in an order or direction made or given thereunder, the offence shall be deemed to continue until the notice is given, the report is entered or the thing is done, as the case may be.

**Evidence.**

**159.** In any prosecution or legal proceedings instituted by an inspector, any writing purporting to be a copy of—

- (a) an instruction or delegation;
- (b) a direction or notice;
- (c) a rule or scheme;
- (d) a certificate of competency;
- (e) an appointment of any official or person;

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- (f) an exemption from compliance with any requirement of this Act, the regulations, the rules or a scheme; or
- (g) an approval granted under this Act,  
and purporting to be certified by a prescribed officer as a true copy thereof shall be prima facie evidence—
- (h) of the terms of the instruction, delegation, direction, notice, rule, scheme, certificate of competency, appointment, exemption or approval; and
- (i) that it was duly granted or given and duly issued.

**Offences against Act, etc.****160.** A person who—

- (a) being employed at a mine, wilfully interferes with any official of the mine or other person exercising his functions under this Act, the regulations, the rules or a scheme or any directions, or conditions of exemptions or approvals, given thereunder;
- (b) negligently or wilfully does at a mine anything likely to endanger the safety of the mine or the safety or health of persons at the mine or negligently or wilfully omits to do at a mine anything necessary for ensuring the safety of the mine or the safety or health of persons at the mine;
- (c) not being an official of a mine, without permission granted by such an official, removes, alters, or tampers with anything provided at the mine for the purpose of securing the safety or health of persons employed at the mine;
- (d) being employed at a mine, contravenes any direction given to him by or on behalf of the owner or the manager of the mine for regulating the conduct either of all persons employed at the mine or of any class of person so employed to which that person belongs, being a direction given for the purpose of—
  - (i) securing compliance with this Act, the regulations, the rules or a scheme having effect with respect to the mine; or
  - (ii) securing the safety or health of that person or any other person employed at the mine;



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- (e) wilfully makes a false entry in any register, book, notice or other document required by or under this Act to be kept, served or given, or, with intent to deceive, makes use of any such entry which he knows to be false;
- (f) in purported compliance with a requirement imposed by or under this Act to furnish any returns, statistics or other information or to inform a person of the substance of any instructions, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- (g) discloses any returns, statistics or other information in contravention of this Act or the regulations;
- (h) falsely pretends to be an inspector or check inspector;
- (i) with intent to deceive, forges or uses or lends to, or allows to be used by, another person a certificate of competency granted under this Act or makes or has in his possession a document so closely resembling any such certificate as to be calculated to deceive;
- (j) for the purpose of obtaining for himself or another person—
  - (i) the grant of any certificate of competency or the issue of a duplicate thereof or the restoration of any such certificate;  
or
  - (ii) employment as a manager or under-manager of a mine or as a surveyor for a mine, or employment in any office at a mine, the appointment to which is required by virtue of this Act to be made by the manager of the mine,  
makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or produces, furnishes, sends or otherwise makes use of a document which is false in a material particular;
- (k) without reasonable excuse, removes, injures or defaces a notice which is for the time being posted at a mine in pursuance of any provisions of this Act, the regulations, the rules or a scheme;
- (l) contravenes or fails to comply with any provision of this Act, the regulations, the rules or a scheme;
- (m) fails to exercise any function conferred or imposed on him by or under a provision of this Act, the regulations, the rules or a scheme;

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*Coal Mines Regulation.*

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- (n) fails to comply with a direction given to him by the Minister or by an inspector in accordance with a provision of this Act, the regulations, the rules or a scheme; or
- (o) fails to comply with a condition imposed on him in accordance with a provision of this Act, the regulations, the rules or a scheme,

shall be guilty of an offence against this Act.

**Liability of owners, etc., where offence committed.**

**161. (1)** Subject to subsection (2), where, in relation to a mine, a person commits an offence against this Act, the owner, superintendent, assistant superintendent, manager, deputy manager, under-manager in charge and under-managers of the mine also shall each be guilty of an offence against this Act.

**(2)** A person shall not, in relation to a mine, be guilty of an offence under subsection (1) in respect of an offence against this Act committed by another person (in this subsection referred to as "the offender") where—

- (a) the offender is the owner of the mine; or
- (b) that person is an official listed in an order of seniority in Part A or Part B of Schedule 1 and the offender is senior, according to that order of seniority, to that person.

**(3)** Proceedings for an offence under subsection (1) shall be instituted only with the consent of the Minister given in writing.

**(4)** A person may be proceeded against and convicted under subsection (1) in respect of an offence committed by another person whether or not that other person has been proceeded against for, or been convicted of, that offence.

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*Coal Mines Regulation.*

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(b) in the case where the person is a corporation, not exceeding \$5,000.

(2) Where, in relation to an offence against this Act committed in respect of a mine, the court by which a person is convicted of the offence is of the opinion that the offence is one which was likely to, or did—

- (a) endanger the safety of persons employed in the mine;
- (b) cause serious personal injury to any such persons; or
- (c) cause a dangerous accident,

and that the offence was committed wilfully by the personal act, personal default or personal negligence of the person convicted, the court may, instead of imposing a monetary penalty, sentence that person to a term of imprisonment not exceeding 12 months.

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PART VIII.

GENERAL.

**Delegation of functions by the Minister or the Chief Inspector.**

167. (1) Subject to this section—

- (a) the Minister may, by instrument in writing, delegate to any person such of the functions conferred or imposed on him by or under this Act as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation; and
- (b) the Chief Inspector may, by instrument in writing, delegate to the Deputy Chief Inspector or an inspector appointed under section 7 (1) (c)–(h) such of the functions conferred or imposed on him by or under this Act (not being functions delegated to him under paragraph (a)) as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

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*Coal Mines Regulation.*

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(2) The Minister or the Chief Inspector shall not delegate under subsection (1) the exercise of his power of delegation.

(3) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(4) A function the exercise of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(5) Notwithstanding any delegation made by the Minister or the Chief Inspector under this section, the Minister or the Chief Inspector, as the case may be, may continue to exercise all or any of the functions delegated.

(6) Any act or thing done or suffered by a delegate while exercising a function delegated to him under this section has the same force and effect as if the act or thing had been done or suffered by the Minister or the Chief Inspector, as the case may be.

### **Hours of working of mine employees.**

**168. (1)** For the purposes of this section—

- (a) an “emergency” means any happening or occurrence at a mine which has, in the opinion of the manager of the mine, put the mine or the health or safety of persons employed at the mine in danger; and
- (b) a person shall be deemed to be on duty at a mine if he is present at the mine and is required by the manager of the mine to exercise some function at the mine.

(2) No person employed at a mine shall, except in an emergency, remain on duty at the mine for a continuous period in excess of 18 hours.

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*Coal Mines Regulation.*

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(3) No person employed at a mine who has been on duty at the mine for a period in excess of 18 hours shall, except in an emergency, recommence duty at the mine until a period of 10 hours has elapsed since he was last on duty at the mine.

(4) The manager of a mine shall make an entry, in a book to be kept at the mine for that purpose, of every occasion on which a person—

- (a) remains on duty at the mine in excess of the period specified in subsection (2); or
- (b) commences duty at the mine before the period specified in subsection (3) has elapsed,

and shall specify in the book in relation to that entry the nature of the emergency.

**Service of notices.**

**169. (1)** A notice required or authorised to be given to, or served on, a person by or under this Act shall be in writing and shall be given to, or served on, that person—

- (a) personally or by post; or
- (b) if a manner of giving or serving the notice is prescribed, in the manner prescribed.

(2) A notice required or authorised to be given to, or served on, an owner of a mine by or under this Act shall be deemed to have been so given or served if it is given to, or served on, the superintendent or the manager of the mine.

**Appointments to be in writing.**

**170. (1)** Any appointment of a person for the purposes of this Act or the regulations shall be in writing unless a contrary intention appears in the provision authorising or requiring the appointment.

(2) An instrument of appointment of a mining official at a mine or a copy thereof shall be kept by the owner of the mine at the office of the mine during the currency of the appointment and for 12 months thereafter.

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*Coal Mines Regulation.*

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**Records, returns and information.**

**171. (1)** Every book or form which, in pursuance of this Act or the regulations, is required to be kept or provided by the owner of a mine for the purpose of the entry therein of any report, record or other item of information shall, if there is an approved form, be in or to the effect of that form.

**(2)** Every entry made in a book or form required to be kept or provided by the owner of a mine for the purpose referred to in subsection (1), or a copy of that entry, shall be preserved by the owner until the expiration of 1 year after the date on which the entry was made or, if some other period is prescribed, until the expiration of that period.

**(3)** A book or form required to be kept or provided by the owner of a mine for the purpose referred to in subsection (1) shall be kept by the owner at the office at the mine or at such other place as may be approved by the district inspector.

**(4)** Every entry required to be made in a book or form for the purpose referred to in subsection (1) which is required by or under this Act to be countersigned may be countersigned on the duplicate copy of the entry.

**Continuation of appointments, etc., made by owners or officials of mines.**

**172.** Any appointment, delegation, rule, scheme, direction or instruction made or given by a person who is the owner or an official of a mine shall continue in force after that person ceases to be the owner or official, as the case may be, and may be altered from time to time or revoked as if it had been made or given by his successor.

**Finance.**

**173. (1)** Any expenses incurred under or by virtue of this Act by the Minister shall be defrayed out of money provided by Parliament.

**(2)** Any sums received under or by virtue of this Act by the Minister shall be paid into the Consolidated Revenue Fund.

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*Coal Mines Regulation.*

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**Regulations.**

**174. (1)** The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**(2)** In particular, but without limiting the generality of subsection (1), the regulations may include provision for or with respect to—

- (a) the safety, health, convenience and conduct of persons at mines;
- (b) the care and maintenance of animals used at mines;
- (c) prohibiting the use of specified materials or classes or types of material underground in mines unless such materials, classes or types are approved;
- (d) the duties and discipline of persons employed in or about mines;
- (e) the design, construction, installation, maintenance, use, testing, repair, adjustment, alteration and examination of machinery or apparatus used at mines (in so far as those matters affect the safety or health of persons at mines);
- (f) the design, use, construction and maintenance of—
  - (i) mechanical vehicles and locomotives at mines;
  - (ii) mechanical equipment at mines;
  - (iii) buildings and structures at mines;
  - (iv) equipment used in connection with shafts and roadways in mines;
  - (v) belt conveyors at mines; and
  - (vi) electrical equipment at mines,in so far as those things affect the safety or health of persons at mines;
- (g) prohibiting the installation at mines of machinery or apparatus not constructed so as to comply with the regulations;
- (h) the construction, design, material and strength of foundations to which any machinery or apparatus at mines is or is to be anchored;

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*Coal Mines Regulation.*

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- (i) the provision of security measures at mines to prevent access to shafts, drifts and surface buildings when unattended;
- (j) the provision of blast doors or other devices capable of assisting in the sealing off of mines;
- (k) inspections for the presence of noxious or flammable gas, spontaneous combustion or heating or for the absence of oxygen, including provisions for or with respect to the installation in mines or the supply to persons employed in mines of devices, systems or equipment for the detection, monitoring or testing of flammable or noxious gases or for detecting or monitoring the absence of oxygen;
- (l) the support of the roof and sides of working places and roadways in mines and the withdrawal of that support;
- (m) the maintenance and inspection of shafts and roadways in mines;
- (n) working practices employed at mines in so far as those practices affect the safety or health of persons at mines;
- (o) prohibiting the working of mines affected by dust or prescribing the conditions under which any such mines shall be worked;
- (p) requiring the use in mines of prescribed apparatus in relation to dust;
- (q) requiring steps to be taken and working practices to be adopted to minimise dust in mines;
- (r) preventing the accumulation in mines of flammable dust;
- (s) the prevention, detection and combating of fires at, and spontaneous heatings occurring in, mines including provisions for or with respect to—
  - (i) the establishment and maintenance at mines of such organisations of persons as may be necessary for the prevention, detection and combating of fires and spontaneous heatings and the training of the members of any such organisations; and
  - (ii) the provision and maintenance at mines of suitable and sufficient apparatus for the prevention, detection and combating of fires and spontaneous heatings;



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*Coal Mines Regulation.*

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- (t) the design, installation, operation and maintenance of methane drainage systems in mines and the treatment, storage and disposal of methane;
- (u) the requirements to be observed and the precautions to be taken in mining—
  - (i) under the ocean, a river, a lake, an estuary, a reservoir or an aquifer; and
  - (ii) near any place or strata which is likely to contain a dangerous accumulation of gas or water or material that flows when wet;
- (v) the control of the supply, storage and use of blasting materials, blasting devices and flammable materials at mines;
- (w) requiring the surveying, and the preparation of plans, of barriers and protective pillars in mines and prescribing the time in which any such surveys or plans shall be made or prepared;
- (x) the charging of fees for the testing of machinery, vehicles, equipment, apparatus, material or any other articles for approval for the purposes of this Act or the regulations;
- (y) the waiver, remission or refund of fees charged under the regulations;
- (z) the approval of any equipment, apparatus, material or thing before it may be used in, installed in or taken into a mine or connected to, or used with, any other equipment, apparatus, material or thing used or installed in a mine;
- (aa) the issue of certificates of examination in respect of any equipment, apparatus, material or thing proposed to be used in, installed in or taken into a mine;
- (bb) the preparation and the putting into effect of rules and schemes referred to in Divisions 7 and 8 of Part IV;
- (cc) the generation, storage, transformation, transmission and use of electricity at mines;
- (dd) the use, construction, installation, examination, repair, maintenance, alteration, adjustment and testing of electrical apparatus and electric cables at mines;

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*Coal Mines Regulation.*

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- (ee) the circumstances in which the supply of electricity into the underground parts of a mine or part of a mine or any apparatus in a mine shall be cut off and the type, nature and design of apparatus to be used to cut off the supply of electricity;
- (ff) requiring the installation in mines of such electrical apparatus as may be prescribed and the type, nature and design of any such apparatus;
- (gg) the circumstances in which the supply of electricity shall not be connected to the underground parts of a mine or part of a mine and the type, nature and design of any apparatus to be used to prevent the supply of electricity being connected;
- (hh) requiring communication systems to be provided in mines;
- (ii) the supply and maintenance of first aid equipment, facilities and locations in mines;
- (jj) the employment in mines of persons trained to administer first aid to persons injured;
- (kk) the conveyance of persons injured within a mine from the mine to their homes or hospital;
- (ll) the provision, location, care and maintenance of sanitary conveniences in mines;
- (mm) the control of rats, mice, other vermin and insects in and about mines;
- (nn) the provision, design, location, care and maintenance of bath and change houses at mines;
- (oo) the supply of drinking water at mines;
- (pp) the provision of facilities for the taking of meals both on the surface and underground at mines;
- (qq) the supply and maintenance of safety equipment for the use of persons employed at mines;
- (rr) the transport of persons and materials in mines;
- (ss) requiring persons employed in mines who carry out functions which may affect the safety or health of other persons to hold such qualifications as may be prescribed;

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*Coal Mines Regulation.*

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- (tt) the ventilation of mines;
- (uu) the environmental working conditions in mines;
- (vv) the control of the temperature and humidity in mines;
- (ww) the use of safety lamps and appliances for detecting the presence of flammable gas in mines;
- (xx) lighting in or about mines;
- (yy) prohibiting the taking into mines of items which may affect the safety of persons therein;
- (zz) searching persons, before entry into mines, for items referred to in paragraph (yy) and the confiscation and disposal of any such items found;
- (aaa) the fencing, enclosing or sealing of abandoned or discontinued mines or parts of mines;
- (bbb) the making of rules, and the preparation of schemes, by managers of mines and the enforcing of the observance of those rules and schemes;
- (ccc) requiring the provision of notice boards at mines and prescribing—
  - (i) the number, design, construction, size and location of notice boards;
  - (ii) matters that shall be displayed on notice boards; and
  - (iii) the size and type of print to be used in matter to be displayed on notice boards;
- (ddd) prescribing the type, size, contents and location of signs and notices to be displayed at mines;
- (eee) the supply free of charge by the owners of mines to mine employees of abstracts of this Act and the regulations and any other approved books or information;
- (fff) the preparation, maintenance, keeping and preservation of plans, sections and drawings of mines (including abandoned mines) and of workings in or about mines and of related documents, including provisions for or with respect to the preparation of those plans, sections and drawings by the Department and the recovery of the cost thereof;

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*Coal Mines Regulation.*

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- (ggg) surveys of mines (including abandoned mines);
- (hhh) the furnishing or production of copies of plans, sections and drawings of mines (including abandoned mines) and the furnishing of information relevant to the preparation of those plans, sections or drawings to the Department, to inspectors and to other persons;
- (iii) the supply of, or the furnishing of information from, copies of plans, sections or drawings filed with the Department to persons;
- (jjj) prescribing, in respect of emplacement areas, engineering, environmental and safety standards, practices to be adopted in constructing and using emplacement areas and steps to be taken to keep emplacement areas secure;
- (kkk) regulating the number of persons who may be employed underground in a mine or part of a mine in prescribed circumstances;
- (lll) regulating the employment of persons under the age of 16 years in or about mines and the employment of female persons underground at mines;
- (mmm) the provision, retention, maintenance and inspection of records at mines; and
- (nnn) the functions of inspectors, including provisions for or with respect to the production of written authorities by inspectors and the warnings to be administered to persons in the course of an inspection.

(3) A power under this Act to make regulations may be exercised—

- (a) in relation to—
  - (i) all cases to which the power extends;
  - (ii) all cases to which the power extends subject to special exceptions; or
  - (iii) in relation to any specified cases or classes of cases to which the power extends; and

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*Coal Mines Regulation.*

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(b) so as to make, as respects the cases in relation to which it is exercised—

- (i) the same provision for all cases, a different provision for different cases or classes of cases, or different provisions as respects the same cases or classes of cases for different purposes of this Act; or
- (ii) any provision referred to in subparagraph (i) either unconditionally or subject to any specified conditions.

(4) Without limiting the generality of subsection (3), the regulations may provide for the classification of underground mines by reference to the quantity of flammable gas found in the mines.

(5) The Chief Inspector may, by instrument in writing served on the owner of a mine, order that any specified provision of the regulations, the rules or a scheme—

- (a) shall not apply to or in respect of any person or class of person, or any act, matter or thing or class of act, matter or thing, specified in the order; or
- (b) shall not so apply in such circumstances or subject to such conditions as may be so specified.

(6) Subsection (5), to such extent as is prescribed, applies to an inspector in the same way as it applies to the Chief Inspector.

(7) An order made under subsection (5) shall take effect according to its tenor on and from the time it is made or, where a later time is specified in the order, from the day so specified.

(8) The regulations may, in relation to any matter in respect of which they may be made—

(a) authorise or require—

- (i) inspectors;
- (ii) owners or officials of mines; or
- (iii) persons employed in or about mines,

to—

- (iv) do, or cause to be done, such acts as are specified in the regulations; or

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*Coal Mines Regulation.*

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- (v) ensure that such acts as are specified in the regulations are done; or
- (b) require any such inspector, owner, official or person to—
  - (i) refrain from doing such acts as are specified in the regulations; or
  - (ii) ensure that such acts as are specified in the regulations are not done.
- (9) A regulation may—
  - (a) apply differently according to such factors as are specified in the regulation;
  - (b) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person;
  - (c) adopt wholly, partly or by reference—
    - (i) any of the standards, rules, codes or specifications specified in the regulation that have been recommended or adopted by the British Standards Institution or the Standards Association of Australia (whether published before or after the day appointed and notified under section 2 (2)); or
    - (ii) any standards, rules, codes or specifications approved by the Minister and published in the Gazette (whether published before or after that day),  
relating to the matter with which the regulation deals together with any additions or amendments thereto (whether made or published before or after that day) that are so specified;
  - (d) exempt persons, or persons of a prescribed class, or any act, matter or thing, or any prescribed class of act, matter or thing, either absolutely or subject to conditions, from any provision of the regulation;
  - (e) require an application under this Act to be verified by a statutory declaration; and

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*Coal Mines Regulation.*

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- (f) impose a penalty not exceeding \$500 for any contravention of a regulation and in addition, where the contravention continues, a penalty not exceeding \$50 for every day the contravention continues.

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SCHEDULE 1.

(Secs. 5 (1) (19), 33 (3).)

MINING OFFICIALS AND ORDER OF SENIORITY OF MINING OFFICIALS.

PART A.

**Mining officials and order of seniority—underground mines.**

Superintendent.  
Assistant Superintendent.  
Manager.  
Deputy Manager.  
Under-manager in charge.  
Under-manager.  
Deputy.

PART B.

**Mining officials and order of seniority—open cut mines.**

Superintendent.  
Assistant Superintendent.  
Manager.  
Deputy Manager.  
Examiner of an open cut mine.

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*Coal Mines Regulation.*

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## SCHEDULE 2.

(Sec. 18.)

## PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD.

**Interpretation.**

## 1. In this Schedule—

“appointed member” means a member referred to in section 13 (2) (c)-(j);

“chairman” means the chairman of the Board;

“deputy chairman” means the deputy chairman of the Board;

“meeting” means a meeting of the Board;

“member” means a member of the Board.

**Chairman.**

2. (1) The chairman shall preside at all meetings at which he is present.

(2) The members shall elect a member as a deputy chairman of the Board.

(3) If the chairman is not present at any meeting at the time appointed for holding the meeting, the deputy chairman shall act as chairman at that meeting.

(4) If the chairman and deputy chairman are not present at any meeting at the time appointed for holding the meeting, the members present at the meeting shall appoint one of their number to act as chairman at that meeting.

**Term of office of members.**

3. (1) The Minister shall specify in the instrument of appointment of an appointed member a term of office, not exceeding 3 years, in relation to the member.

(2) An appointed member shall cease to hold office—

(a) subject to subclause (3), on the expiration of his term of office;

(b) on attaining the age of 65 years;

(c) on his resignation; or

(d) on termination of his appointment under subclause (5) or under section 30 of the Interpretation Act, 1897,

whichever is the earliest.



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*Coal Mines Regulation.*

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD—*continued.*

(3) An appointed member shall, if otherwise qualified, be eligible for re-appointment as a member.

(4) An appointed member may, by notice in writing given to the Minister, resign his office.

(5) In addition to his powers under section 30 of the Interpretation Act, 1897, the Minister may remove or suspend from office any or all of the members, whether or not he appoints instead a person as a member, or persons as members.

**Voting.**

4. (1) Questions arising at a meeting shall be determined by a majority of votes of the members present and voting.

(2) The chairman or member presiding at a meeting shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

**Remuneration of members.**

5. Each member is entitled to receive such remuneration (including travelling and subsistence allowances) for attending meetings and transacting business of the Board as the Minister may from time to time determine in respect of him.

**Procedure generally.**

6. The frequency of meetings, the procedures for the conduct of business at meetings and the number of members required to constitute a quorum at a meeting shall, subject to this Act, the regulations and any directions given by the Minister, be as determined by the Board.

**Regulations.**

7. The regulations may make provisions, not inconsistent with this Act, with respect to—

- (a) the frequency of meetings;

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*Coal Mines Regulation.*

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD—*continued.*

- (b) the procedures for the conduct of business at meetings;
- (c) the number of members required to constitute a quorum at a meeting; and
- (d) the circumstances in which a member shall be deemed to have vacated his office.

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

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 20th May, 1982.*

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*Coal Mines Regulation.*

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**Liability of directors, etc., of corporations.**

**162. (1)** Where a corporation commits an offence against this Act, each director of the corporation, and each officer concerned with the management of the corporation, shall, if it is proved that—

- (a) the offence was committed with his consent or connivance; or
- (b) the commission of the offence was attributable to any neglect on his part,

be guilty of the same offence.

**(2)** A person may be proceeded against and convicted under subsection (1) in respect of an offence committed by a corporation whether or not the corporation has been proceeded against for, or been convicted of, the offence.

**Aiding, abetting, etc.**

**163.** A person who aids, abets, counsels, induces or procures, or consents to or connives at, the commission of an offence against this Act by another person shall be guilty of an offence against this Act.

**Defences.**

**164. (1)** It shall be a defence to any proceedings for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the person proceeded against to prove that he took all reasonable means to prevent the commission of the other offence by publishing, and, to the best of his power, enforcing the observance of, the provisions of this Act, the regulations, the rules and any scheme and any directions, or conditions of exemptions or approvals, given thereunder.

**(2)** It shall be a defence to any proceedings against the owner of a mine for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the owner to prove that—

- (a) he was not in the habit of taking, and did not in respect of the matters in question take, any part in the management of the mine;

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*Coal Mines Regulation.*

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- (b) he had made all the financial and other provisions necessary to enable the manager of the mine to carry out his duties; and
- (c) the other offence was committed without his knowledge, consent or connivance.

(3) It shall be a defence to any proceedings against a person for an offence against this Act for the person to prove that—

- (a) it was not reasonably practicable for him to comply with—
  - (i) the provision of this Act, the regulations, the rules or the scheme;
  - (ii) the direction; or
  - (iii) the condition of an exemption or approval, the breach of which constituted the offence; or
- (b) the commission of the offence was due to causes over which he had no control and against the happening of which it was impracticable for him to make provision.

**Proceedings by owners, etc.—advice of result.**

**165.** Where an owner, a superintendent or a manager of a mine institutes proceedings against a person employed at the mine for an offence against this Act, he shall, within 21 days after—

- (a) completion of the proceedings; and
- (b) where an appeal has been lodged, completion of the appeal proceedings,

give to the district inspector notice of the result of the proceedings or appeal proceedings, as the case may be.

**Penalties.**

**166. (1)** A person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed a penalty—

- (a) except as provided in paragraph (b), not exceeding \$2,000; or

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, April, 1982.*

## New South Wales



ANNO TRICESIMO PRIMO

# ELIZABETHÆ II REGINÆ

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Act No. , 1982.

An Act for regulating coal mines (and oil shale and kerosene shale mines) and certain related places.

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See also Coal Mining (Amendment) Bill, 1982; Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Bill, 1982.

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*Coal Mines Regulation.*

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**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

**PART I.****PRELIMINARY.****Short title.**

1. This Act may be cited as the "Coal Mines Regulation Act, 1982".

**Commencement.**

- 10 2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act 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.

**15 Arrangement.**

3. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–6.

PART II.—ADMINISTRATION—*ss.* 7–31.

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**Act applies only to coal mines except where otherwise expressly enacted.**

4. Except in so far as is in this Act expressly enacted, this Act applies only to coal mines.

**Interpretation.**

5 5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“approved” means approved by the Chief Inspector;

10 “assistant superintendent”, in relation to a mine, means a person appointed under section 35 to be an assistant superintendent of the mine;

“Board” means the Coal Mining Qualifications Board constituted under this Act;

“certificate of competency” means a certificate granted under section 19;

15 “check inspector” means a person elected under section 71 in respect of a mine;

“Chief Inspector” means the person appointed as chief inspector of coal mines under section 7;

“coal” includes oil shale and kerosene shale, but does not include peat;

20 “colliery holding” has the meaning ascribed thereto in the Coal Mining Act, 1973;

“court” means a Court of Coal Mines Regulation constituted under section 150;

“Department” means the Department of Industrial Relations;

25 “Deputy Chief Inspector” means the person appointed as deputy chief inspector of coal mines under section 7;

“direction” includes any instruction, order or requirement authorised by this Act to be given or made by the Minister or an inspector;

“district check inspector”, in relation to a mine, means the person elected under section 77 as the district check inspector for the mine;



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- “district inspector”, in relation to a mine, means the inspector of coal mines appointed for the mine under section 7 (2);
- “drift” means a roadway driven in stone or alluvial matter, but does not include a shaft;
- 5 “electrical check inspector”, in relation to a mine, means the person elected under section 80 as the electrical check inspector for the mine;
- “flammable gas” means methane, carbon monoxide or hydrogen;
- “functions” includes powers, authorities and duties;
- 10 “inspector” means the Chief Inspector, the Deputy Chief Inspector, a senior inspector or a person appointed as an inspector of coal mines under section 7;
- “manager”, in relation to a mine, means the person appointed or nominated under section 36 as the manager of the mine;
- 15 “methane” includes ethane, propane and similar hydrocarbon gases;
- “mine”, when used as a noun, includes (subject to subsections (3)–(16)) any place, land, building, structure, pit, shaft, drive, level, drift, excavation and work on or in which, or whereby, any operation for or in connection with mining is carried on and any
- 20 pipe, conveyor or ropeway used for the conveyance of coal or stone;
- “mine”, when used as a verb, means to disturb, remove, cart, carry, crush or otherwise deal with coal or stone for the purpose of obtaining coal but does not include the act of exploring for coal
- 25 by drilling from the surface;
- “mining official” means—
- (a) in relation to an underground mine—a person holding at the mine any position specified in Part A of Schedule 1; and
- 30 (b) in relation to an open cut mine—a person holding at the mine any position specified in Part B of Schedule 1;
- “official”, except in the expression “mining official”, means—
- (a) in relation to an underground mine—a person holding at the mine any position specified in Part A of Schedule 1 or
- 35 any other position prescribed for the purposes of this paragraph; and

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(b) in relation to an open cut mine—a person holding at the mine any position specified in Part B of Schedule 1 or any other position prescribed for the purposes of this paragraph;

“open cut mine” means a mine in which persons are not employed underground when the mine is being worked;

“outlet”, in relation to a mine, means a means of ingress or egress for persons, materials, coal or stone;

“owner”, in relation to a mine or a part of a mine, as the case may require, means any person who is the immediate proprietor, the lessee or the occupier of the mine or the part of the mine, and includes—

(a) where the mine or the part of the mine is being worked by a person who is an official liquidator, receiver, manager or other person authorised by law (other than a provision of this Act) to carry on the business of working the mine—that person;

(b) where the mine or the part of the mine belongs to, or is held in trust for, the Crown, a department of the Government or a statutory authority—the Crown, the department or the statutory authority, as the case may be; and

(c) where the mine or the part of the mine is being worked by a contractor—the contractor,

but does not include a person who merely receives a royalty, rent or fine from the mine or the part of the mine or is merely holding the property on or in which the mine or the part of the mine is situated subject to any lease, grant or licence to, or contract with, another person for the working of the mine or the part of the mine;

“regulation” means a regulation made under this Act;

“roadway” means any passageway in a mine formed by the removal of coal or stone and through which is passed or is proposed to be passed coal, stone, persons, materials or ventilation;

“rules” means rules made under this Act or the regulations, other than rules of court;

“rules of court” means rules made under section 155;

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- “senior inspector” means a person appointed as a senior inspector of coal mines under section 7 (1) (c);
- “scheme” means a scheme prepared under this Act or the regulations;
- “shaft” includes a staple shaft;
- 5 “stone” includes rock, clay, shale, soil and sand, but does not include coal;
- “superintendent”, in relation to a mine, means a person appointed under section 34 to be a superintendent of the mine;
- “support rules” means rules made under section 102;
- 10 “surveyor”, in relation to a mine, means a person appointed under section 44 as the surveyor for the mine;
- “transport rules” means rules made under section 101;
- “underground mine” means a mine in which persons are employed underground when the mine is being worked;
- 15 “Under Secretary” means the Under Secretary, Department of Industrial Relations;
- “vehicle” includes any mechanically driven machine capable of moving under its own power.

(2) A reference in this Act to the exercise of a function includes, 20 where the function is a duty, a reference to the performance of the duty.

(3) In subsections (4) and (7), “place” includes land, building, structure, pit, shaft, drive, level, drift and excavation.

(4) The Minister may, by notice published in the Gazette, declare that—

- 25 (a) any place, any part of any place or any place belonging to a class of place specified in the notice shall, for the purposes of this Act—
- (i) be deemed to be part of a mine; or
  - (ii) be deemed not to be part of a mine; or

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- (b) any pipe, conveyor or ropeway, any part of a pipe, conveyor or ropeway or any pipe, conveyor or ropeway belonging to a class of pipe, conveyor or ropeway specified in the notice shall, for the purposes of this Act—
- 5           (i) be deemed to be part of a mine; or  
          (ii) be deemed not to be part of a mine.
- (5) A notice under subsection (4) may apply to all mines, to a particular mine or particular mines or to all mines other than a particular mine or particular mines.
- 10 (6) A notice under subsection (4) has effect according to its tenor.
- (7) Without limiting the generality of subsections (4)–(6), the Minister may, under subsection (4), declare that a place, pipe, conveyor or ropeway, or any part thereof, used by or in connection with 2 or more mines shall be deemed to be a part of one of those mines.
- 15 (8) For the purposes of this Act, any building, structure, pit, shaft, drive, level, drift, excavation or work—
- (a) which is in the course of construction and which is intended to be part of a mine;
- 20 (b) which is a part of a mine and which is in the course of being abandoned; or
- (c) which is a part of a mine the operations at or in which are in the course of being discontinued,
- shall be deemed to be part of a mine.
- (9) For the purposes of this Act, a mine shall be deemed to be  
25 worked notwithstanding that the only work being carried out at the mine is in connection with—
- (a) sinking or raising a shaft or driving an outlet;
- (b) abandoning or discontinuing operations at the mine;
- (c) removing or replacing overburden; or
- 30 (d) rehabilitating land used as an open cut mine.

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**(10)** For the purposes of this Act, a mine shall be deemed to be worked until such time as a notice that the mine has been abandoned or operations at the mine have been discontinued has been given under section 134.

**(11)** Where 2 or more parts of a mine can be worked separately, the Chief Inspector may, on application by the owner of the mine, declare by instrument in writing that the several parts of the mine shall be deemed to be separate mines for the purposes of this Act.

**(12)** Where 2 or more mines can be worked as one mine, the Chief Inspector may, on application by the owner or owners of the mines, declare by instrument in writing that the mines shall be deemed to be one mine for the purposes of this Act.

**(13)** In making a declaration under subsection (11) or (12) the Chief Inspector shall have regard to the effect that the declaration may have on the safety of persons employed in the mines.

**(14)** A declaration made under subsection (11) or (12) may be made subject to conditions.

**(15)** The Chief Inspector may at any time revoke a declaration made under subsection (11) or (12).

**(16)** A declaration under subsection (11) or (12) has effect according to its tenor.

**(17)** Any power conferred by this Act or the regulations on the Minister or an inspector to—

(a) grant or give an exemption, consent, approval, authority or direction;

(b) impose any requirement, prohibition or restriction; or

(c) make a determination,

includes a power, exercisable in the like manner and subject to the like conditions, if any, as the power so conferred, to vary or revoke the exemption, consent, approval, authority, direction, requirement, prohibition, restriction or determination.

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(18) An exemption, consent, approval or authority granted or given under this Act or the regulations by the Minister or an inspector may, subject to any express provision of this Act or the regulations—

- (a) be without limit as to its period of operation; or  
5 (b) be limited so as to expire on a specified date unless renewed,  
and may be absolute or conditional.

(19) Schedule 1 may be amended, added to or substituted (wholly or in part) by regulation.

**Act binds Crown.**

- 10 6. This Act binds the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

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**PART II.****ADMINISTRATION.**

- 15 DIVISION 1.—*Departmental inspectors.*

**Appointment of inspectors.**

7. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1979, appoint for the purposes of this Act—
- 20 (a) a chief inspector of coal mines;  
(b) a deputy chief inspector of coal mines;  
(c) senior inspectors of coal mines;  
(d) inspectors of coal mines;  
(e) a senior inspector of electrical engineering;  
(f) inspectors of electrical engineering;

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- (g) a senior inspector of mechanical engineering; and
- (h) inspectors of mechanical engineering.

(2) The Chief Inspector or a person authorised by him may appoint an inspector of coal mines as the district inspector for a mine.

### 5 Qualifications of inspectors.

8. (1) A person shall not be appointed under section 7 (1) (a)–(d), inclusive, unless—

- (a) he holds a certificate of competency to be a manager of a mine;
- (b) he has had not less than 3 years' experience as a manager of an  
10 underground mine in Australia; and
- (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

(2) A person shall not be appointed under section 7 (1) (e) or (f) unless—

- 15 (a) he holds a certificate of competency to be a mine electrical engineer;
- (b) he has had not less than 2 years' experience as a mine electrical engineer at an underground mine in Australia; and
- 20 (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

(3) Subject to subsection (4), a person shall not be appointed under section 7 (1) (g) or (h) unless—

- (a) he holds a certificate of competency to be a mine mechanical engineer;
- 25 (b) he has had not less than 2 years' experience as a mine mechanical engineer at an underground mine in Australia; and
- (c) he holds such other qualifications and has had such other experience as may be prescribed for the purposes of this paragraph.

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(4) Notwithstanding the provisions of subsection (3), during such period after the day appointed and notified under section 2 (2) as may be prescribed a person may be appointed under section 7 (1) (g) or (h) if—

- 5 (a) he holds a degree or diploma in mechanical engineering of a kind approved by the Minister for the purposes of this paragraph; and
- (b) he has had, in the opinion of the Minister, sufficient mining experience to warrant his appointment.

**Disclosure of financial interests by inspectors.**

9. (1) A person appointed under section 7 shall advise the Under  
10 Secretary of any financial interest the person may hold, either directly or indirectly, in a mine.

(2) An advice referred to in subsection (1) shall be given—

- 15 (a) where the interest is held at the time of the appointment—within 28 days of the appointment or within such further time as the Under Secretary may determine; or
- (b) where the interest is acquired after the appointment—within 28 days of the acquisition of the interest or within such further time as the Under Secretary may determine.

(3) The Under Secretary may direct a person appointed under section  
20 7 to dispose of any financial interest held, either directly or indirectly, in a mine within such period as is specified by the Under Secretary.

(4) A person who is given a direction under subsection (3) shall comply with that direction.

**Functions of inspectors.**

25 10. (1) The Chief Inspector has the functions—

- (a) imposed on him by or under this Act; or
- (b) assigned to him by the Minister in connection with the administration of this Act.



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(2) The Deputy Chief Inspector has—

- (a) such of the functions of the Chief Inspector as are delegated to him under this Act to the extent that those functions are delegated; and
- (b) the functions assigned to him by the Minister in connection with the administration of this Act.

(3) The senior inspectors appointed under section 7 (1) (c) and the inspectors appointed under section 7 (1) (d) have the functions imposed on them by or under this Act.

(4) The Senior Inspector of Electrical Engineering and each inspector of electrical engineering appointed under section 7 (1) (f) have—

- (a) the functions imposed on them by or under this Act; and
- (b) the functions imposed on inspectors under sections 59 and 60 to the extent that those functions relate to the use, construction, installation, examination, repair, maintenance, alteration, adjustment or testing of electrical apparatus or electrical cables.

(5) The Senior Inspector of Mechanical Engineering and each inspector of mechanical engineering appointed under section 7 (1) (h) have—

- (a) the functions imposed on them by or under this Act; and
- (b) the functions imposed on inspectors of coal mines under sections 59 and 60 to the extent that those functions relate to the use, construction, installation, examination, repair, maintenance, alteration, adjustment or testing of mechanical equipment or the construction, erection or maintenance of buildings or structures.

## 25 Absence of Chief Inspector and Deputy Chief Inspector.

11. Where both the Chief Inspector and the Deputy Chief Inspector are absent from duty, or on duty but outside the State, the Minister may appoint an inspector to exercise the functions of the Chief Inspector.

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**Annual reports by inspectors.**

12. (1) Each inspector appointed under section 7 (1) (c)–(h) shall, at such time or within such period as the Chief Inspector may direct, make an annual report of his official activities during the preceding year to the Chief  
5 Inspector.

(2) The reports referred to in subsection (1), as summarised by the Chief Inspector, shall be furnished by the Chief Inspector to the Minister.

**DIVISION 2.—Coal Mining Qualifications Board.****Constitution of Board.**

10 13. (1) There is hereby constituted a board to be known as the Coal Mining Qualifications Board.

(2) The Board shall consist of 10 members, of whom—

- (a) one shall be the Chief Inspector;
- (b) one shall be the Deputy Chief Inspector;
- 15 (c) one shall be a person who holds a certificate of competency as a manager and is either an owner, a superintendent or an assistant superintendent of a mine;
- (d) one shall be a manager of a mine;
- (e) one shall be a manager of an open cut mine;
- 20 (f) one shall be a mine electrical engineer, mine mechanical engineer or surveyor for a mine;
- (g) one shall be a person employed as a deputy in a mine;
- (h) one shall be a person employed in a mine, other than a person referred to in paragraphs (c)–(g);
- 25 (i) one shall be a person who, in the opinion of the Minister, represents a school of mining engineering in a university; and

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- (j) one shall be a person who belongs to a technical education authority and who, in the opinion of the Minister, specialises in and is skilled in techniques of assessment and determination of qualifications.
- 5       (3) The members referred to in subsection (2), other than the ex-officio members, shall be appointed by the Minister by instrument in writing.
- (4) A person of or over the age of 65 years shall not be appointed as a member.
- 10       (5) The Chief Inspector or, if the Minister so directs, the Deputy Chief Inspector shall be the chairman of the Board.

**Functions of Board.**

14. The Board shall—
- 15       (a) determine the qualifications necessary for the grant of certificates of competency;
- (b) determine whether applicants for certificates of competency are eligible to be granted those certificates;
- (c) appoint examiners and conduct examinations for certificates of competency; and
- 20       (d) carry out such research or investigations, either generally or in any particular case, in relation to certificates of competency and qualifications for the grant thereof as the Minister may require and make to the Minister reports or recommendations, as the case may require, in relation thereto.

**25 Examiners.**

15. (1) Examiners appointed by the Board shall be paid such remuneration (including travelling and subsistence allowances) as the Board may, with the approval of the Minister, determine.

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(2) An officer or temporary employee of the Public Service appointed as an examiner under this Act may retain for his own use remuneration paid to him under subsection (1).

**Expenses of Board.**

5 16. The expenses of the Board (including any remuneration payable to examiners appointed by them) shall be defrayed out of money provided by Parliament.

**Annual report.**

10 17. The Board shall, at such time or within such period as the Minister may direct, make an annual report of its proceedings during the preceding year to the Minister.

**Provisions relating to members and procedure of Board.**

18. (1) Schedule 2 has effect.

(2) Schedule 2 may be amended, added to or substituted (wholly or 15 in part) by regulation.

**DIVISION 3.—Certificates of competency.****Certificates that may be granted.**

19. (1) The Minister may, on the recommendation of the Board, grant certificates of competency to be—

- 20 (a) a manager of a mine;  
(b) an under-manager of a mine;  
(c) a deputy;  
(d) a mine electrical engineer;  
(e) a mine mechanical engineer;

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- (f) a mine surveyor;
- (g) a manager of an open cut mine;
- (h) an examiner of an open cut mine; or
- (i) a mine electrical engineer of an open cut mine.

5           **(2)** If the Board so recommends, the Minister may grant a certificate of competency subject to terms or conditions.

**Examinations and qualifications for certificates of competency.**

20.   **(1)** The Board shall hold examinations for certificates of competency at such times and places as the Board may determine.

10           **(2)** The Board may give general instructions to examiners appointed by them with respect to the conduct and content of examinations.

**(3)** In determining whether or not to recommend the granting of a certificate of competency the Board shall have regard to such knowledge as is necessary for the practical working of mines.

15           **(4)** Examinations conducted by the Board for certificates of competency to be a deputy or an examiner of an open cut mine shall be suitable for practical working miners.

**(5)** The Board may accept, subject to any conditions it may impose, a certificate of competency granted by an authority outside New South Wales  
20 as being sufficient qualification for the grant of a certificate of competency under this Act.

**(6)** The Board may refuse to recommend the granting of a certificate of competency to a person on the grounds that a certificate of competency held by that person has been cancelled or suspended.

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**Holders of certain certificates may be appointed to other positions.**

21. (1) A person who holds a certificate of competency to be a manager of a mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold—
- 5 (a) a certificate of competency to be an under-manager of a mine;  
(b) a certificate of competency to be a mine deputy;  
(c) a certificate of competency to be a manager of an open cut mine;  
or  
(d) a certificate of competency to be an examiner of an open cut mine.
- 10 (2) A person who holds a certificate of competency to be an under-manager of a mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold a certificate of competency to be a mine deputy.
- 15 (3) A person who holds a certificate of competency to be a manager of an open cut mine may be appointed to a position under a provision of this Act notwithstanding that the provision requires the appointee to hold a certificate of competency to be an examiner of an open cut mine.
- 20 (4) A person who holds a certificate of competency to be a mine electrical engineer may be appointed to a position under a provision of the regulations notwithstanding that the provision requires the appointee to hold a certificate of competency to be a mine electrical engineer of an open cut mine.

**Register.**

22. (1) The Chief Inspector shall keep a register of the holders of  
25 certificates of competency.
- (2) The register referred to in subsection (1) shall be received in every court as evidence that a certificate of competency has or has not been granted to a person and of the class of a certificate of competency granted to a person.

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**Rules.**

**23. (1)** The Board, with the consent of the Minister, may make rules, not inconsistent with this Act, with respect to—

- 5 (a) the qualifications to be held by a person in order for the grant to him of a certificate of competency to be recommended;
- (b) the experience that a person applying for a certificate of competency must have in order for the grant to him of a certificate of competency to be recommended;
- 10 (c) the age which a person is to have attained before he may be granted a certificate of competency;
- (d) the course of instruction to be undertaken by an applicant for a certificate of competency;
- 15 (e) subject to section 20, the nature and type of examinations to be undertaken by applicants for certificates of competency and the manner of their conduct;
- (f) the fees payable by applicants for certificates of competency and candidates for examinations conducted by the Board;
- 20 (g) the circumstances in which the Board may grant to an applicant for a certificate of competency exemption from complying with the rules in respect of the undertaking of examinations, the holding of qualifications, the possession of experience and the attendance of courses of instruction;
- (h) the matters to be included in an application for a certificate of competency; and
- 25 (i) such other matters as may be prescribed.

**(2)** A rule made under subsection (1) shall—

- (a) be published in the Gazette;
- (b) take effect on and from the date of publication or a later date specified in the rule; and
- 30 (c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

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(3) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a rule has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

5 (4) For the purposes of subsections (2) and (3), sitting days shall be counted, whether or not they occur during the same session.

(5) Judicial notice shall be taken—

(a) of a rule made or purporting to have been made under this section and published in the Gazette; and

10 (b) of the date of its publication.

(6) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule have been complied with and performed.

**Regulations.**

15 24. The regulations may include provisions, not inconsistent with this Act, with respect to—

(a) the issue and replacement of certificates of competency; and

(b) the keeping of the register of holders of certificates of competency.

*DIVISION 4.—Suspension or cancellation of certificates of competency.***20 Notice to show cause.**

25 25. Where a person holding a certificate of competency has been convicted of an offence against this Act or, in the opinion of the Chief Inspector—

(a) has, by reason of his incompetence or negligence, caused injury to any person or property; or

(b) is, by reason of his incompetence or negligence, reasonably likely to cause injury to any person or property,



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and, in the opinion of the Chief Inspector, is unfit to hold the certificate, the Chief Inspector may serve on that person a notice—

- (c) stating that he is of that opinion;
- (d) giving the reasons why he is of that opinion; and
- 5 (e) calling upon that person to show cause why his certificate should not be suspended or cancelled.

**Procedure following service of a notice to show cause.**

26. (1) A person served with a notice under section 25 may, within such period as may be prescribed commencing from the date of service of the  
10 notice, advise the Chief Inspector in writing whether or not it is his intention to show cause why his certificate of competency should not be suspended or cancelled.

(2) Where a person advises the Chief Inspector, in accordance with subsection (1), that it is not his intention to show cause why his certificate  
15 of competency should not be suspended or cancelled, the Minister shall—

- (a) suspend the certificate for such period as is specified by him;
- (b) cancel the certificate; or
- (c) direct that, for the purposes of subsection (3), the person be  
20 regarded as having failed to give an advice in accordance with subsection (1).

(3) Where a person—

- (a) advises the Chief Inspector, in accordance with subsection (1), that it is his intention to show cause why his certificate of competency should not be suspended or cancelled;
- 25 (b) fails to advise the Chief Inspector, in accordance with subsection (1), whether or not it is his intention to show cause why his certificate of competency should not be suspended or cancelled; or
- (c) advises the Chief Inspector, in accordance with subsection (1), that it is not his intention to show cause why his certificate of  
30 competency should not be suspended or cancelled and the Minister has given a direction in respect of him under subsection (2) (c),

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the Chief Inspector shall, if the Minister so approves, file with a court within such period as may be prescribed commencing from—

- 5 (d) where an advice has been given by the person as referred to in paragraph (a)—the date of receipt of that advice by the Chief Inspector; or
- (e) where the person has failed to give an advice as referred to in paragraph (b) or the Minister has given a direction in respect of him under subsection (2) (c)—the day after the date of expiration of the period during which the advice could have been given,
- 10 a statement in relation to the certificate of competency in such form and containing such particulars as may be specified in the rules of court.

**Hearing and determination by a court.**

27. (1) Following the filing with it of a statement under section 26 (3) in relation to a certificate of competency, a court shall—

- 15 (a) hear and determine the matter; and
- (b) make a recommendation to the Minister as to whether or not the certificate of competency should be suspended or cancelled.

(2) Where a court makes a recommendation that a certificate of competency be suspended, the court shall specify the period of suspension  
20 recommended by it.

(3) Where a court makes a recommendation that a certificate of competency held by a person be suspended or cancelled, it may recommend that a certificate of competency of a class different from the class of the certificate of competency, the suspension or cancellation of which is recom-  
25 mended, be granted to the person subject to such conditions as it may specify.

**Suspension of certificates pending hearing.**

28. (1) Where—

- (a) the Chief Inspector has served a notice to show cause on a person under section 25; and

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- (b) the Chief Inspector is of the opinion that, for reasons of safety—
- (i) the person's certificate of competency should be suspended;  
or
  - (ii) the exercise of the rights conferred on the person by his  
5 certificate of competency should be restricted,  
pending a hearing of the matter by a court,

the Chief Inspector may apply to a court for an order to suspend the certificate or restrict the exercise of the rights conferred by it, as the case may require, pending a hearing of the matter by a court.

- 10 (2) An application under subsection (1) shall be in such form and contain such particulars as may be specified in the rules of court.

- (3) If a court so determines, having regard to the circumstances, it may hear and determine an application under subsection (1) without requiring the holder of the certificate of competency to be present and without  
15 any evidence being tendered on his behalf.

- (4) If a court is satisfied that, for reasons of safety, a certificate of competency in respect of which an application has been made under subsection (1) should be suspended or the exercise of the rights conferred by it should be restricted, it may make an order to that effect subject to such  
20 conditions as it may specify.

- (5) An order made under subsection (4) shall have effect according to its tenor.

**Surrender of certificates.**

- 25 **29.** A person whose certificate of competency is suspended or cancelled shall surrender his certificate to the Minister on being advised by the Minister of the suspension or cancellation.

**Restoration of certificates.**

- 30 **30. (1)** A court may, on the application of a person whose certificate of competency has been suspended or cancelled, recommend to the Minister that—

- (a) the certificate of competency which has been suspended or cancelled be restored; or

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(b) a certificate of competency of a class different from the class of the certificate which has been suspended or cancelled be granted to that person.

(2) An application under subsection (1) shall be in such form and contain such particulars as may be specified in the rules of court.

**Minister to give effect to court's recommendations.**

31. The Minister shall give effect to any recommendations made by a court under this Division.

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**PART III.**

10

**MANAGEMENT OF MINES.****DIVISION 1.—*Management generally.*****Duties of owners.**

32. The owner of a mine shall make such provision as is, and take such steps as are, necessary to ensure that—

- 15 (a) the mine is so planned, laid out and equipped as to enable it to be managed and worked in accordance with this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- (b) the mine is so managed and worked.

**20 Officials, order of seniority of mining officials and appointments.**

33. (1) A person shall not be appointed to a position at or in respect of a mine if that person's functions will involve the issuing of instructions with respect to the management or working of the mine, which instructions relate, either directly or indirectly, to the safety or health of persons employed  
25 at the mine, unless that person is appointed as a mining official in accordance with this Part.

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(2) Subsection (1) does not apply to the nomination by the owner of a mine of himself as manager of the mine.

(3) Each person holding a position as a mining official at a mine shall, in relation to all other mining officials at the mine, have seniority 5 equivalent to—

- (a) in the case of an underground mine—the seniority indicated for that position in the order of seniority specified in Part A of Schedule 1; or
- 10 (b) in the case of an open cut mine—the seniority indicated for that position in the order of seniority specified in Part B of Schedule 1.

(4) Notwithstanding that a mine or any part thereof is worked, or any part of the operations in a mine is carried on, by a contractor, the owner of the mine shall employ and pay the wages of all officials and shot firers at the mine unless the Chief Inspector otherwise approves.

15 (5) Except with the approval of the Chief Inspector, a contractor working, or carrying out operations in, a mine or any part thereof or any person employed by him, shall not be appointed to be an official of the mine.

### **Superintendents.**

20 34. (1) The owner of a mine may appoint a person as a superintendent of the mine.

(2) The owner of a mine shall not appoint a person as a superintendent of the mine unless that person is the holder of—

- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or
- 25 (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

(3) Where the owner of a mine appoints a person as a superintendent of the mine and that person is to exercise all or some of the functions of the owner under this Act, the owner shall, as soon as practicable (or, if 30 a period is prescribed for the purposes of this subsection, within that period), give to that person written instructions specifying the functions of the owner under this Act which are to be exercised by that person.

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(4) Where the owner of a mine appoints a person as a superintendent of the mine, he shall, as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period), advise the district inspector and the manager of the mine in writing of—

- 5 (a) the full name, address and title of the person so appointed;  
(b) the date of his appointment; and  
(c) the functions to be performed by him.

(5) The owner of a mine shall, within 14 days after a change in the functions of a superintendent, give to the district inspector a notice stating 10 particulars of the change.

(6) No person, other than an owner of a mine, shall appoint a person as a superintendent of a mine.

**Appointment of assistant superintendents.**

35. (1) The owner or the superintendent of a mine may appoint as 15 assistant superintendents of the mine such number of persons as is necessary to assist the superintendent of the mine to exercise his functions under this Act.

(2) The owner or the superintendent of a mine shall not appoint a 20 person as an assistant superintendent of the mine unless that person is the holder of—

- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or  
(b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

25 (3) Where the owner or the superintendent of a mine appoints a person as an assistant superintendent of the mine, the owner or the superintendent, as the case may be, shall, as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period), advise the district inspector and the manager of the mine in writing of—

- 30 (a) the full name, address and title of the person so appointed;

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*Coal Mines Regulation.*

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- (b) the date of his appointment; and
- (c) the functions to be performed by him.

(4) The owner or the superintendent of a mine who has appointed an assistant superintendent of the mine shall, within 14 days after a change in the functions of the assistant superintendent, give to the district inspector a notice stating particulars of the change.

(5) No person, other than an owner or a superintendent of a mine, shall appoint a person as an assistant superintendent of a mine.

**Managers.**

10 36. (1) The owner of a mine shall not work the mine at any time when—

- (a) there is no person appointed or nominated as the manager of the mine under this section; or
- 15 (b) except as provided by section 48, there is more than one person appointed or nominated as the manager of the mine.

(2) The owner or superintendent of a mine may appoint a person as the manager of the mine or the owner of a mine, being an individual, may nominate himself as the manager of the mine.

20 (3) No person, other than an owner or a superintendent of a mine, shall appoint a person as the manager of a mine.

(4) The owner or the superintendent of a mine shall not appoint a person as the manager of the mine unless that person, or the owner of a mine (being an individual) shall not nominate himself as the manager of the mine unless he, is the holder of—

- 25 (a) in the case of an underground mine at which the total number of persons usually employed below ground during a period of 24 hours when the mine is being worked is more than 15—a certificate of competency to be a manager of a mine;

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(b) in the case of an underground mine at which the total number of persons usually employed below ground during a period of 24 hours when the mine is being worked is not more than 15—

(i) a certificate of competency to be a manager of a mine; or

(ii) a certificate of competency to be an under-manager of a mine and a permit, issued to him by the Chief Inspector under subsection (5) and currently in force, to be the manager of the mine; or

(c) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

(5) The Chief Inspector may issue to the holder of a certificate of competency to be an under-manager of a mine a permit to be the manager of a mine, specified in that permit, at which not more than 15 persons are usually employed below ground during a period of 24 hours when the mine is being worked.

(6) A permit issued under subsection (5) shall be in force for a period of 12 months, commencing from the date of issue (or, where a later date is specified in the permit, from that date), but may be renewed by the Chief Inspector on the recommendation of the district inspector for further periods, each of 12 months, commencing from the day after a date of expiration of the permit.

(7) The Chief Inspector may, by notice in writing given to the holder of a permit issued under subsection (5), cancel that permit.

(8) Copies of a notice given under subsection (7) to the holder of a permit to be the manager of a mine shall be sent by the Chief Inspector to the owner or the superintendent of the mine.

(9) A person shall not be the manager of more than one mine at the one time except with the approval of the Chief Inspector.

(10) The Chief Inspector shall not, under subsection (9), approve of a person being the manager of more than 2 mines at the one time.



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*Coal Mines Regulation.*

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**Functions of managers.**

**37. (1)** Subject to any instructions given to him or to another person employed at the mine by—

- (a) the owner of the mine;
- 5 (b) a superintendent of the mine; or
- (c) an assistant superintendent of the mine,  
(excluding instructions which are required under section 52 or 54 to be confirmed in writing and which have not been so confirmed), the manager of a mine—
- 10 (d) shall have full charge and control of—
  - (i) all persons employed at the mine; and
  - (ii) all operations at the mine;
- (e) shall enforce the observance, by all persons employed at the mine, of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given there-  
15 under; and
- (f) shall have such other functions as may be conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given  
20 thereunder.

**(2)** Without limiting the generality of subsection (1), the manager of a mine shall—

- (a) appoint or employ such number of officials, engineers, technicians and other persons as is necessary to—  
25
  - (i) operate the mine in conformity with; and
  - (ii) carry out any inspections at the mine required by, this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given there-  
under;
- 30 (b) ensure that the machinery, apparatus and equipment in use at the mine is maintained in a safe working condition;

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*Coal Mines Regulation.*

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- (c) if the mine is an underground mine—
- (i) ensure that the height and width of roadways in the mine are at all times not less than those specified in the transport rules made in respect of that mine; and
  - 5 (ii) ensure that the roof and sides of working places and roadways in the mine (other than roadways located in a part of the mine which is fenced off in pursuance of the regulations) are adequately supported where necessary for safety;
  - 10 (d) ensure that officials at the mine are in possession of such information and plans as are necessary to enable those officials to ensure that all operations at the mine for which they are responsible are carried out in a safe manner;
  - 15 (e) subject to subsection (3) (a), ensure that the persons appointed or employed as required under paragraph (a) understand the nature and scope of any functions which they are required to exercise under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder;
  - 20 (f) display in such manner and for such periods as may be prescribed copies of all exemptions from complying with any provisions of, or made under, this Act which have been granted in respect of the mine;
  - 25 (g) take steps to ensure that any matter which is of an abnormal or unusual nature and which could affect the safety of persons in the mine is promptly brought to his attention;
  - 30 (h) take such steps as may be necessary to ensure that at all times he is in possession of all available information relevant to the behaviour of strata surrounding the mine and its relationship to the safe working of the mine and all available information regarding disused excavations or workings in the vicinity of the mine; and
  - 35 (i) subject to subsection (3) (b), read each report, record or other item of information which is required to be made or recorded under this Act, the regulations, the rules and any schemes and

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*Coal Mines Regulation.*

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any directions, or conditions of exemptions or approvals, given thereunder immediately upon his becoming aware of the existence of the report, record or other item.

5 with—

- 10 (a) subsection (2) (e) in respect of a person appointed or employed as required under subsection (2) (a) if that person has acknowledged in writing that he understands the nature and scope of any functions which he is required to exercise under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder; and
- 15 (b) subsection (2) (i) in respect of a report, record or other item of information referred to in that paragraph if—
- (i) he ensures that it is read by a person appointed by him in writing (being a person having such qualifications as may be prescribed for the purposes of this subparagraph) immediately upon that person's becoming aware of the existence of the report, record or other item; and
- 20 (ii) he has taken steps to ensure that any matter disclosed in the report, record or other item which is of an abnormal or unusual nature and which could affect the safety of persons in the mine is promptly brought to his attention.

**Deputy managers.**

25 **38. (1)** The owner, the superintendent or the manager of a mine may appoint a person as a deputy manager of the mine or appoint a number of persons as deputy managers of the mine.

**(2)** The owner, the superintendent or the manager of a mine shall not appoint a person as a deputy manager of the mine unless that person is the holder of—

- 30 (a) in the case of an underground mine—a certificate of competency to be a manager of a mine; or
- (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine.

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(3) No person, other than an owner, a superintendent or a manager of a mine, shall appoint a person as a deputy manager of a mine.

**Under-managers in charge.**

39. (1) The owner of an underground mine shall not work the mine—

5 (a) at any time when the manager of the mine is also the manager of another mine in pursuance of an approval given under section 36 (9)—unless there is a person appointed under this section as an under-manager in charge of the whole of the mine or  
10 there is a number of persons appointed under this section as under-managers in charge in respect of the several underground parts of the mine; or

(b) where the Chief Inspector has, by reason of the size or condition of the mine, directed the owner not to work the mine unless a  
15 person is appointed under this section as an under-manager in charge of the whole of the mine or such number of persons as is specified in the direction is appointed under this section as under-managers in charge of the several underground parts of the mine—  
unless there is a person, or there are persons, appointed in compliance with the direction.

20 (2) The owner, the superintendent or the manager of an underground mine may appoint a person as an under-manager in charge of the whole of the mine or appoint a number of persons as under-managers in charge of the several underground parts of the mine.

(3) The owner, the superintendent or the manager of an under-  
25 ground mine shall not appoint a person as an under-manager in charge of the whole of the mine or of an underground part of the mine unless that person is the holder of a certificate of competency to be an under-manager of a mine.

(4) No person, other than an owner, a superintendent or a manager  
30 of an underground mine, shall appoint a person as an under-manager in charge of the whole or of an underground part of an underground mine.

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**Under-managers.**

40. (1) The owner, the superintendent or the manager of an underground mine may appoint a person as an under-manager of the whole or of an underground part of the mine or appoint a number of persons as under-  
5 managers of the several underground parts of the mine.

(2) A person may be appointed as an under-manager of the whole or of an underground part of an underground mine notwithstanding that no under-manager in charge of the whole or of the underground part of the mine has been appointed under section 39.

10 (3) The owner, the superintendent or the manager of an underground mine shall not appoint a person as an under-manager of the whole or of an underground part of the mine unless the person is the holder of a certificate of competency to be an under-manager of a mine.

15 (4) No person, other than an owner, a superintendent or a manager of an underground mine, shall appoint a person as an under-manager of the whole or of an underground part of an underground mine.

**Functions of under-managers in charge and under-managers.**

41. (1) An under-manager in charge, or an under-manager, of an underground mine may have jurisdiction in respect of the whole of the mine or his  
20 jurisdiction may be limited to an underground part of the mine.

(2) Each under-manager in charge, and each under-manager, of an underground mine shall enforce the observance, by all persons employed in—

- 25 (a) where the whole of the mine is under his jurisdiction—the mine;  
or  
(b) where the whole of the mine is not under his jurisdiction—the part of the mine which is under his jurisdiction,

of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder in working the mine  
30 or that part of the mine, as the case may be.

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(3) Subsection (2) does not apply to an under-manager of an underground mine during a period when he is not on duty at the mine.

(4) For the purposes of this section, where a part of an underground mine is to be under the separate jurisdiction of any under-manager in charge or under-manager, the manager of the mine shall cause—

(a) that part of the mine to be identified by a distinguishing name or number; and

(b) the boundaries of that part of the mine to be—

(i) clearly marked underground in a manner approved by the district inspector; and

(ii) shown on a plan prepared, and displayed at the mine, as prescribed.

(5) The manager of an underground mine shall retain at the office of the mine a record of the starting and finishing times of the shifts of each under-manager of the mine.

### Deputies.

42. (1) The manager of an underground mine shall appoint such number of deputies as is sufficient in his opinion to carry out efficiently the functions at the mine conferred or imposed on deputies by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

(2) The manager of an underground mine shall not appoint a person as a deputy unless that person is the holder of a certificate of competency to be a deputy and such other qualifications as may be prescribed.

(3) No person, other than a manager of an underground mine, shall appoint a person as a deputy in relation to an underground mine.

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*Coal Mines Regulation.*

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**Examiners of open cut mines.**

43. (1) The manager of an open cut mine shall appoint such number of examiners of open cut mines as is sufficient in his opinion to carry out efficiently the functions at the mine conferred or imposed on examiners of 5 open cut mines by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

(2) The manager of an open cut mine shall not appoint a person as an examiner of an open cut mine unless that person is the holder of a certificate of competency to be an examiner of an open cut mine and such 10 other qualifications as may be prescribed.

(3) No person, other than a manager of an open cut mine, shall appoint a person as an examiner of an open cut mine.

**Surveyors.**

44. (1) Subject to subsection (2), the owner of a mine shall not work 15 the mine at any time when there is no person appointed as the surveyor for the mine.

(2) Where a vacancy occurs in the office of a surveyor for a mine, the mine may be worked for a period not exceeding 1 month, or such longer period as the district inspector may allow, until the vacancy is filled.

20 (3) The owner, the superintendent or the manager of a mine may appoint a person as the surveyor for the mine.

(4) The owner, the superintendent or the manager of a mine shall not appoint a person as the surveyor for the mine unless that person is the holder of such qualifications as may be prescribed.

25 (5) No person, other than an owner, a superintendent or a manager of a mine, shall appoint a surveyor for a mine.

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**Appointment, qualifications and duties of certain officials, etc.**

45. (1) Regulations may be made—

- 5 (a) requiring or authorising the appointment at all mines, at a particular class or description of mine or at a particular mine of such officials (not being officials the appointment of whom is required or authorised by a provision of this Act), engineers and technicians as may be specified in the regulations; and
- 10 (b) specifying the qualifications to be held by a person who is required or authorised to be appointed by a provision of a regulation made under paragraph (a).

(2) Regulations may be made requiring the appointment at all mines, at a particular class or description of mine or at a particular mine of such officials (being officials the appointment of whom is authorised, but is not required, by a provision of this Act) as may be specified in the regulations.

15 (3) Regulations may be made specifying the functions, or additional functions, as the case may require, of any official required or authorised to be appointed by a provision of this Act or of any official, engineer or technician required or authorised to be appointed by a provision of a regulation made under this section.

20 (4) Regulations may be made specifying additional qualifications to be held by any official required or authorised to be appointed by a provision of this Act.

**Notification of appointment or nomination of certain officials and of changes in names, etc.**

25 46. (1) A person who appoints or nominates a person as the manager, deputy manager, under-manager in charge or under-manager of a mine, as a surveyor for a mine or as the holder of any position prescribed for the purposes of this subsection at a mine shall as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period)

30 send to the district inspector a notification in writing (or, if there is an approved form, in that form) containing—

- (a) the full name, address and title of the person so appointed or nominated;



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- (b) the date of his appointment or nomination;
  - (c) details of the certificate of competency held by him, including the registered number thereof; and
  - (d) such other particulars as may be prescribed.
- 5           (2) Where the jurisdiction of an under-manager in charge or an under-manager of an underground mine is limited to an underground part of the mine, that part of the mine shall be specified in the notification given under subsection (1) in respect of the under-manager in charge or under-manager and the notification shall be countersigned by the under-manager
- 10 in charge or under-manager, as the case may be.
- (3) The owner of a mine shall, within 14 days after a change—
- (a) in the name of the mine;
  - (b) in the name of the owner of the mine; or
  - (c) in the name of the secretary or the manager of the company which
- 15           is the owner of the mine,
- give to the district inspector a notice stating the particulars of the change.

DIVISION 2.—*Immediate supervision of working of mines.*

**Interpretation.**

20    47. (1) For the purposes of this Division, a mine shall be deemed to be being worked if any kind of work, whether mining or not, is being undertaken at the mine.

(2) In this Division, “on any day” means in any period of 24 hours ending at 12 midnight and “on that day” has a corresponding meaning.

**Manager, deputy manager or acting manager to be in attendance on each day on which a mine is worked.**

25    48. (1) The owner of a mine shall ensure that the mine is not worked on any day unless—

- (a) the manager of the mine attends the mine on that day and carries out his duties at the mine; or

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- (b) subject to subsection (5) and section 49, where the manager of the mine is or will be absent from the mine during the whole of that day—
- (i) a deputy manager of the mine; or
  - 5 (ii) a person appointed by the owner or the superintendent of the mine to act as manager of the mine,
- attends the mine on that day and carries out the duties of the manager of the mine.
- (2) The owner or the superintendent of a mine shall not appoint a  
10 person under subsection (1) (b) (ii) unless that person is the holder of—
- (a) in the case of an underground mine—a certificate of competency to be a manager of a mine or a certificate of competency to be an under-manager of a mine; or
  - 15 (b) in the case of an open cut mine—a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine.
- (3) A deputy manager attending a mine and exercising the functions of the manager of the mine in the circumstances referred to in subsection (1) (b) (i) or a person appointed to act as the manager of a mine under  
20 subsection (1) (b) (ii) shall, for the purposes of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder be deemed to be the manager of the mine with the same functions as the person whose functions he is exercising or in whose place he is appointed to act.
- 25 (4) Nothing in subsection (3) shall be construed as divesting a manager of a mine of any function conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.
- (5) Subject to section 49, where the manager of a mine does not  
30 attend the mine and carry out his duties at the mine for—
- (a) a period of 2 months and the Chief Inspector has not allowed a longer period under paragraph (b)—the provisions of subsection (1) (b) shall cease to have effect in relation to that mine as from the expiration of that period of 2 months; or

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- (b) such period, in excess of 2 months, allowed by the Chief Inspector under this paragraph—the provisions of subsection (1) (b) shall cease to have effect in relation to that mine as from the expiration of that period.
- 5           (6) Where the owner of a mine knows that the manager of the mine will not be attending the mine for a period of 5 or more consecutive days, the owner shall give notice to that effect to the district inspector before the commencement of that period and inform him of the name, address and title of the person who will be carrying out the manager's duties during his  
10 absence.

**Working of mines where limited operations being undertaken.**

49. (1) Notwithstanding the provisions of sections 48 and 50, the owner of an underground mine may work the mine on any day where—
- 15       (a) no mining is taking place at the mine and any operations underground at the mine do not involve—
- (i) the employment of more than 15 persons underground at any one time; or
- (ii) any alteration to the mine ventilation system or any alteration to the ventilation of a part of the mine (other  
20 than an alteration which it is usual to make during the working of a part of the mine); and
- (b) the owner, the superintendent or the manager of the mine has appointed a person, being a person who holds a certificate of competency to be a manager of a mine, a certificate of competency to be an under-manager of a mine or a certificate of competency to be a deputy, to be responsible for the carrying out of the operations at the mine on that day and that person attends the  
25 mine on that day.
- (2) Notwithstanding the provisions of sections 48 and 50, the owner  
30 of an underground mine may work the mine on any day when no persons are employed underground at the mine if the owner, the superintendent or the manager of the mine has appointed a competent person to be responsible for the carrying out of the operations at the mine on that day and that person attends the mine on that day.

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(3) Notwithstanding the provisions of section 48, the owner of an open cut mine may work the mine on any day when—

(a) no mining is taking place at the mine; and

(b) any other operations being undertaken at the mine do not involve the employment of more than 10 persons,

5 if the owner, the superintendent or the manager of the mine has appointed a person, being a person who holds a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine, to be responsible for the carrying out of the operations  
10 at the mine on that day and that person attends the mine on that day.

**Under-manager in charge or acting under-manager in charge to be in attendance on each day on which a mine is worked.**

50. (1) Where the owner of an underground mine is prohibited by section 39 (1) from working the mine unless there is a person appointed as  
15 an under-manager in charge of the whole of the mine, the owner of the mine shall ensure that the mine is not worked on any day unless—

(a) the person appointed as the under-manager in charge of the mine under section 39 attends the mine on that day and carries out his duties at the mine; or

20 (b) where that person is or will be absent from the mine during the whole of that day—a person appointed by the owner, the superintendent or the manager of the mine to act as under-manager in charge of the mine attends the mine on that day and carries out the duties of under-manager in charge of the mine.

25 (2) Where the owner of an underground mine is prohibited by section 39 (1) from working an underground part of the mine unless there is a person appointed as an under-manager in charge of that part of the mine, the owner of the mine shall not work the mine on any day unless—

30 (a) the person appointed as the under-manager in charge of that part of the mine under section 39 attends the mine on that day and carries out his duties at the mine; or

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(b) where that person is or will be absent from the mine on that day —a person appointed by the owner, the superintendent or the manager of the mine to act as under-manager in charge of that part of the mine attends the mine on that day and carries out the duties of under-manager in charge of that part of the mine.

(3) The owner, the superintendent or the manager of an underground mine shall not appoint a person under subsection (1) (b) or (2) (b) unless that person is the holder of a certificate of competency to be a manager of a mine or a certificate of competency to be an under-manager of a mine.

(4) A person appointed under this section to act as an under-manager in charge shall, for the purposes of this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder be deemed to be an under-manager in charge with the same functions as the person in whose place he is appointed to act.

(5) Nothing in subsection (4) shall be construed as divesting an under-manager in charge of a mine or of part of a mine of any function conferred or imposed on him by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder.

**Person qualified to be an under-manager to be in charge on any shift.**

51. (1) On and from the date that is 5 years after the day appointed and notified under section 2 (2), the owner of an underground mine shall not work the mine or a part of the mine on any shift unless the mine or the part of the mine, as the case may be, is in charge of a person who is qualified to be appointed as an under-manager.

(2) Subsection (1) does not apply in respect of a mine where—

- (a) the only operations being carried out at the mine are on the surface; or
- (b) no mining is taking place at the mine and any operations underground at the mine do not involve—
  - (i) the employment of more than 15 persons underground at any one time; or

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- (ii) any alteration to the mine ventilation system or any alteration to the ventilation of a part of the mine (other than an alteration which it is usual to make during the working of a part of the mine).

5      **DIVISION 3.—*Owner's instructions to mine officials and employees.***

**Manager may require instructions to be confirmed in writing.**

10      **52.** Any instructions given to the manager of a mine or any other official or employee of the mine by or on behalf of the owner of the mine relating to the functions of the manager, other official or employee under this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder shall be confirmed in writing by the person who gave them immediately after a request to do so is made by the manager, official or employee, as the case may be.

**Instructions to employees to be given through the manager.**

15      **53. (1)** Except in the case of an emergency, neither the owner of a mine nor a person acting on his behalf shall give to an official of the mine less senior than the manager of the mine or to an employee of the mine any instructions relating to the functions of the official or employee under this Act, the regulations, the rules and any schemes and any directions, or  
20 conditions of exemptions or approvals, given thereunder otherwise than through, or with the consent of, the manager of the mine.

(2) If instructions relating to the functions of an official or employee of a mine under this Act, the regulations, the rules or any schemes or any directions, or conditions of exemptions or approvals, given thereunder are  
25 given to—

- (a) an official of a mine less senior than the manager of the mine; or
- (b) an employee of the mine,

otherwise than through, or with the consent of, the manager of the mine, the person who gave the instructions shall inform the manager of the mine  
30 immediately of the substance of the instructions.

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**Certain instructions not to be executed unless confirmed.**

**54. (1)** Without limiting the generality of section 52—

(a) where instructions are given to—

(i) the manager of a mine;

5 (ii) an official of a mine less senior than the manager of a mine;  
or

(iii) an employee of a mine,

10 by the owner of a mine or by a person on behalf of the owner of  
the mine (being, in either case, an owner or a person who is not  
qualified for appointment or nomination as the manager of the  
mine); and

(b) the manager of the mine is of the opinion that the execution of the  
15 instructions would, or might be likely to, prejudice the safety or  
health of any person employed at the mine or impede any person  
employed at the mine in the exercise of any function conferred or  
imposed on him by or under this Act,

the manager of the mine shall—

(c) where the instructions are given to him, decline to execute them  
until they are confirmed in writing by a person—

20 (i) who is qualified for appointment or nomination as the  
manager of the mine; and

(ii) who, if he is not the owner of the mine, is authorised by  
the owner of the mine to confirm the instructions; or

(d) where the instructions are given to another person, direct that  
25 person not to execute the instructions until they are confirmed in  
writing by a person referred to in paragraph (c).

(2) A person given a direction under subsection (1) (d) shall comply  
with the direction.

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**Instructions confirmed in writing to be preserved.**

**55.** Where instructions to any person at a mine are confirmed in writing in accordance with this Division—

- 5 (a) the original instructions shall forthwith be delivered by the person who confirmed them to the manager of the mine; and
- (b) a copy of the instructions shall be kept by the owner of the mine or supplied by the person who confirmed them to the owner of the mine,

10 who shall preserve that original or copy, as the case may be, for at least 6 years after the instructions cease to be effective.

**DIVISION 4.—Delegation of functions by the manager of a mine.****Manager may delegate functions.**

**56. (1)** Subject to this Division, the manager of a mine may, by instrument in writing, delegate to an official or other person employed at the mine 15 the exercise of such of the functions conferred or imposed on him by or under this Act as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

**(2)** Where a form of instrument of delegation is approved for the purposes of this section, a delegation under this section shall be in that form 20 and shall contain such matters as are required to be inserted in that form.

**(3)** Subject to section 57, a delegation under this section has no effect unless it is countersigned by the delegate.

**(4)** The manager of a mine shall not delegate under subsection (1) the exercise of—

- 25 (a) his power of delegation; or
- (b) such of his functions as are prescribed for the purposes of this subsection.



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(5) Regulations may be made prescribing, in respect of the functions of a manager of a mine that may be delegated under subsection (1)—

- (a) the official or other person, or class of official or other person; or
- (b) the qualifications to be held by an official or a person,

5 to whom the exercise of a function may be delegated.

(6) Where a regulation referred to in subsection (5) is made in respect of a function of a manager of a mine, the manager shall not delegate the exercise of that function other than to—

- (a) an official or a person;
  - 10 (b) an official or a person belonging to a class of official or person; or
  - (c) an official or a person holding the qualifications,
- prescribed under that subsection.

(7) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions  
15 delegated, or as to time or circumstances, as are specified in the instrument of delegation.

(8) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

20 (9) Any act or thing done or suffered by a delegate while exercising a function delegated to him under this section has the same force and effect as if the act or thing had been done or suffered by the manager.

(10) A function, the exercise of which has been delegated by the manager of a mine under this section, shall, while the delegation remains  
25 unrevoked—

- (a) be deemed not to be the function of the manager; and
- (b) be deemed to be the function of the delegate,

for the purposes of this Act.

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**Instruments of delegation to be countersigned by delegate.**

57. (1) Subject to subsection (2), a delegate under an instrument of delegation executed under section 56 shall countersign the delegation.

(2) A delegate may refuse to countersign an instrument of delegation under section 56 if he is of the opinion that the delegation is unreasonable.

(3) Where a delegate refuses to countersign an instrument of delegation executed by the manager of a mine under section 56, he shall serve a notice in writing (or, if a form is approved for the purposes of this subsection, in that form) on the manager within 7 days of the making of the delegation setting out the reasons for his refusal.

(4) A manager of a mine may—

(a) on receipt of a notice served under subsection (3) in respect of a delegation; or

15 (b) if, within the period prescribed by subsection (3), no notice is served on him under that subsection in respect of a delegation which a delegate has refused to countersign,

either confirm or revoke the delegation.

(5) If a manager of a mine confirms a delegation under subsection 20 (4), he shall refer the delegation to a court which may hear and determine the matter and—

(a) if it is of the opinion that the delegation is reasonable—order that the delegation be deemed to have been countersigned by the delegate; or

25 (b) if it is of the opinion that the delegation is unreasonable—order that the delegation be deemed to have been revoked,

and make such other order in relation to the delegation as it thinks fit.

(6) An order made under subsection (5) shall have effect according to its tenor.

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**Copies of instruments of delegation to be sent to the district inspector.**

58. (1) A manager of a mine shall send a copy of any instrument of delegation executed by him under section 56 to the district inspector as soon as practicable (or, if a period is prescribed for the purposes of this subsection, within that period) after the execution of the instrument.

(2) Where an instrument of delegation executed by the manager of a mine under section 56—

(a) is countersigned or deemed to have been countersigned by the delegate after a copy thereof has been sent to the district inspector in accordance with subsection (1); or

(b) is revoked or deemed to have been revoked,

the manager shall so advise the district inspector in writing as soon as practicable thereafter.

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**PART IV.****MINE INSPECTION AND SAFETY PROVISIONS.****DIVISION 1.—*Inspectors' powers of entry, inspection, etc.*****Powers generally.**

59. (1) An inspector shall, for the purpose of the execution of this Act, have the power to do all or any of the following things:—

(a) at any time (whether by day or by night) to—

(i) enter a mine and inspect the whole or any part of the mine and anything at the mine;

(ii) enter upon any land, place or premises (other than a mine) or vehicle in the performance of his functions under this section;

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(b) to make such examination and inquiry as may be necessary to ascertain—

- 5 (i) whether, so far as regards a mine or persons employed at a mine, this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder have been complied with;
- (ii) whether there is at a mine any matter or thing which affects or is likely to affect the safety or health of persons employed at the mine;
- 10 (iii) the causes and circumstances of any accident or other occurrence at a mine;
- (c) subject to subsection (2), to take with him in, or on, to any mine or other land, place or premises or vehicle, for the purpose of any inspection, examination or inquiry, such persons as he
- 15 considers necessary to assist him in the performance of his functions.

(2) Where—

- (a) in the case of a mine—the manager of the mine; or
- (b) in the case of any other land, place or premises or any vehicle—
- 20 a person occupying or having charge or control thereof,

objects to a person referred to in subsection (1) (c) entering the mine, land, place, premises or vehicle, that person shall not enter the mine, land, place, premises or vehicle unless the approval of the Chief Inspector, either orally or in writing, is obtained.

## 25 Supplementary powers.

60. (1) For the purpose of any inspection, examination or inquiry referred to in section 59, an inspector shall have power to do all or any of the following things:—

- (a) subject to subsection (2), to require any person—
- 30 (i) whom he finds at a mine or whom he has reasonable cause to believe to be, or within the preceding 2 months to have been, employed at the mine; and

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- 5 (ii) who has been informed of the provisions of subsection (2), to answer (in the absence of persons, other than a person nominated to be present by the person to be questioned and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask;
- (b) to take samples of any articles or substance found at a mine or of the atmosphere in a mine;
- 10 (c) subject to subsections (3) and (4), to take possession of any machinery, apparatus or other article at a mine which appears to him to have caused, or to be likely to cause, danger to safety or health of any persons employed at the mine and cause it to be dismantled, removed or subjected to any process or test, notwithstanding that it is thereby damaged or destroyed;
- (d) to require the production of, and to inspect—
- 15 (i) any registers, books, plans or other documents which by virtue of this Act and the regulations are required to be kept; and
- (ii) any other documents, being documents which are in the possession or under the control of the owner or the manager
- 20 of a mine and are relevant for the purposes of such an examination or inquiry;
- (e) to require the manager of a mine to mark or cause to be marked on any plan of workings in the mine produced in compliance with a requirement imposed under paragraph (d) such information as the inspector considers relevant to such an examination or
- 25 inquiry;
- (f) to require any person having responsibilities under this Act in relation to a mine to give him such facilities and assistance, with respect to any matters or things to which the responsibilities
- 30 of that person extend, as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by section 59 and this section.
- (2) An answer given by a person in pursuance of a requirement imposed under subsection (1) (a) shall not be admissible in evidence against
- 35 him in any proceedings except proceedings for an offence under section 62 (e).

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(3) Where it appears likely to the manager of a mine that a process or test referred to in subsection (1) (c) will result in machinery, apparatus or an article being damaged or destroyed, the manager may request the inspector concerned not to subject the machinery, apparatus or article to the  
5 process or test.

(4) Where the manager of a mine makes a request to an inspector under subsection (3) in respect of machinery, apparatus or an article, the inspector shall not subject the machinery, apparatus or article to any process or test unless the approval of the Chief Inspector, either orally or in writing,  
10 is obtained.

**Inspector to inform mine management of certain matters.**

61. If, as a result of the exercise at or in connection with a mine of any of the powers conferred on him under section 59 or 60, an inspector obtains any information or becomes aware of any practice at the mine which may, in  
15 his opinion, be relevant to the continued safe operation of the mine or the safety of the persons employed at the mine, he shall, as soon as possible, so advise the manager of the mine or, if he is not present at the mine, the next most senior mining official on duty at the mine.

**Offences.**

20 62. A person shall not—

- (a) wilfully fail to comply with any requirement imposed by an inspector under this Division;
- (b) wilfully prevent, or attempt to prevent, any other person from appearing before an inspector or from answering any question to which an inspector may, by virtue of section 59 or 60, require an  
25 answer;
- (c) without permission granted by an inspector, wilfully remove from a mine, or conceal or tamper with, any machinery, apparatus or other article of which possession has been taken by an inspector  
30 under section 60;

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- (d) wilfully fail to comply with a requirement made under section 60 (1) (a) within a period of 24 hours of the requirement being made;
- 5 (e) in giving any answer required of him by an inspector under section 60 (1) (a) make a statement which he knows to be false in a material particular or recklessly make a statement which is false in a material particular; or
- (f) wilfully obstruct an inspector in the exercise of his functions.

DIVISION 2.—*Inspectors' powers where mine dangerous.***10 Inspector may impose prohibitions or restrictions or direct evacuation or closure of mine.**

**63. (1)** If an inspector is of the opinion that a mine or any part thereof or any matter, thing or practice at a mine or connected with the control or management of a mine is, or is liable shortly to become, dangerous to the  
15 safety or health of any persons employed at the mine, he may serve on the owner or the manager of the mine a notice—

- (a) stating that he is of that opinion; and
- (b) giving particulars of his reasons for being of that opinion,  
and, by way of that notice—
- 20 (c) impose upon that owner or manager such prohibitions and restrictions, and require that owner or manager to carry out such works or do such things—
- (i) as appear to the inspector to be necessary for the purpose of safeguarding the safety or health of the persons  
25 employed at the mine; and
- (ii) as are set out in the notice; or
- (d) direct that owner or manager to cause the mine or any part thereof—
- (i) to be evacuated immediately; or
- 30 (ii) to be closed, either indefinitely or for such period as is specified by the inspector,
- or give a direction under both subparagraphs (i) and (ii),  
or he may both impose prohibitions and restrictions under paragraph (c) and give a direction under paragraph (d).

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(2) A prohibition, restriction or requirement imposed, or a direction given, by way of a notice served under subsection (1) may—

(a) be subject to such exemptions as are set out in the notice; and

(b) operate either indefinitely or for such period as is set out in the notice.

(3) An inspector may, in any notice served under subsection (1), require the notice to be complied with immediately or within a period specified in the notice.

(4) Where a notice under subsection (1) cannot be readily served on the owner or the manager of a mine and the circumstances necessitate that the action required by the notice be taken immediately, it may be served on the next senior mining official at the mine.

(5) Where a notice is served by an inspector on the next senior mining official at a mine in accordance with subsection (4), the inspector shall, as soon as practicable, serve on the owner or the manager of the mine a signed copy of the notice.

(6) A copy of a notice served by an inspector under subsection (1) or (4) shall be forwarded immediately by the inspector to the Chief Inspector.

(7) Any notice served under subsection (1) or (4) shall remain in force until it is varied or revoked by the Chief Inspector pursuant to section 65 (2) or by an order of a court pursuant to section 65 (4) unless it sooner expires.

**Authorised persons may enter mine to carry out repairs, etc.**

64. (1) An inspector may authorise persons to enter a mine or a part thereof and carry out repair or other work therein notwithstanding the terms of any notice served under section 63.

(2) A person acting under an authority given in accordance with subsection (1) shall not be guilty of an offence arising under section 63.



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**Objections to notices, directions, etc.**

65. (1) If a person served with a notice under section 63 (1) or (4) objects to complying with any prohibition, restriction, requirement or direction set out in the notice, he may state the grounds of his objections in writing and submit them to the Chief Inspector.

(2) The Chief Inspector shall, within 21 days of the receipt of an objection submitted to him under subsection (1), confirm, vary or revoke the notice in respect of which the objection was submitted.

(3) If the owner or the manager of a mine is dissatisfied with any decision of the Chief Inspector made under subsection (2) in respect of the mine of which he is the owner or manager, he may appeal to a court.

(4) A court may confirm, vary or revoke—

(a) any notice served under section 63; or

(b) any decision of the Chief Inspector made under subsection (2),  
15 in respect of which an appeal is made under subsection (3).

(5) Where—

(a) a notice is varied under subsection (2), the notice as varied shall remain in force until it is varied or revoked by a court pursuant to subsection (4) unless it sooner expires;

20 (b) a notice is varied under subsection (4), the notice shall have force as varied; and

(c) a decision is varied under subsection (4), the notice in respect of which the decision was given shall have force as affected by the decision as varied.

**25 Prohibition, etc., to be complied with notwithstanding objection or appeal.**

66. (1) Subject to subsection (2), a notice served under section 63 shall, while it remains in force, be complied with notwithstanding that an objection to the Chief Inspector or an appeal to a court has been made pursuant to section 65.

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(2) Where a decision is made by the Chief Inspector or a court in respect of a notice served under section 63 (not being a decision to revoke the notice), the notice as affected by that decision shall be complied with.

**Offence.**

5 67. A person shall not fail to comply with a prohibition, restriction or requirement imposed on him, or with a direction given to him, under this Division.

Penalty: \$10,000.

**Court orders.**

10 68. (1) Where any person fails to comply with a prohibition, restriction or requirement imposed on him, or with a direction given to him, under this Division, a court, on the application of the Chief Inspector, may, whether or not that person has been prosecuted in respect of that failure, order that person to comply with the prohibition, restriction, requirement or direction,  
15 as the case may require.

(2) A person who fails to comply with an order under subsection (1) shall be dealt with as for contempt of court.

**DIVISION 3.—Departmental officers' powers of entry.****Authorised officers may enter mines for certain purposes.**

20 69. A person who holds a position in the Public Service and who is authorised in writing by the Chief Inspector may enter any mine for any purpose specified in the authority.

**Obstruction, etc., of authorised officers.**

25 70. (1) A person shall not wilfully obstruct or prevent any person authorised by the Chief Inspector under section 69 from carrying out the purpose specified in the authority.

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(2) An owner, a superintendent or a manager of a mine shall not refuse or neglect to furnish to a person authorised by the Chief Inspector under section 69 the means necessary for making any entry into the mine and carrying out the purpose specified in the authority.

**5** DIVISION 4.—*Inspections on behalf of workmen.*

**Check inspectors.**

71. (1) For the purpose of enabling inspections to be carried out at a mine on behalf of the persons employed at the mine, 2 persons who are practical miners may be elected as check inspectors for the mine.

10 (2) At least one of the persons elected in respect of a mine under subsection (1) shall be employed at the mine.

(3) At least one of the persons elected in respect of a mine under subsection (1) shall have had—

- 15 (a) where the mine is an underground mine—not less than 3 years' practical experience in underground coal mining; and
- (b) where the mine is an open cut mine—not less than 3 years' practical experience in open cut coal mining.

(4) At least one of the persons elected in respect of an underground mine under subsection (1) shall be the holder of a certificate of competency  
20 to be a deputy.

**Election of check inspectors.**

72. For the purposes of section 71, regulations may be made prescribing—

- 25 (a) the persons, or class of person, entitled to vote at an election under that section; and
- (b) the manner in which an election under that section shall be held.

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**Powers of check inspectors.**

73. (1) Subject to subsections (2) and (3), a check inspector for a mine shall be allowed to inspect the mine.

(2) For the purposes of an inspection under this Division, a check 5 inspector shall be accompanied by—

- (a) the manager of the mine; or
- (b) other officials of the mine,

if the manager of the mine thinks fit.

(3) An inspection of a mine by a check inspector shall be at the 10 check inspector's own cost unless it is otherwise agreed between the check inspector and the manager of the mine.

(4) Without limiting the generality of subsection (1), a check inspector for a mine may—

- 15 (a) at any time go into and inspect the shafts, roadways, working places, old workings and machinery and equipment at the mine;
- (b) inspect any documents or plans which by virtue of this Act or the regulations are required to be kept at the office of the mine;
- 20 (c) where there is at the mine an accident or other occurrence (being an accident or occurrence for which notice is required by or under this Act to be given), inspect the place where the accident or other occurrence happened and, so far as is necessary for the purpose of ascertaining its cause—
  - 25 (i) inspect any other part of the mine and any machinery, apparatus or other thing thereat; and
  - (ii) test the atmosphere at the place where the accident or other occurrence happened.

(5) A check inspector who is not a district check inspector shall not leave his place of work for the purpose of making an inspection under this section unless he gives reasonable notice to an official of his intention 30 to do so.

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**Assistance to check inspectors.**

74. The manager of a mine and all other persons at the mine shall afford every facility and assistance to a check inspector for the purposes of an inspection of the mine by him.

**5 Reports by check inspectors.**

75. (1) A check inspector for a mine shall, within 7 days of making an inspection of the mine or of any part thereof, send to the manager of the mine a report of the results of the inspection.

(2) A report under subsection (1) in respect of a mine or a part of 10 a mine shall be preserved at the mine by the manager of the mine for at least 12 months after it is made.

**Reporting of dangers.**

76. (1) A report of the finding, during any inspection by a check inspector for a mine, of—

- 15     (a) noxious or flammable gas;  
       (b) the existence of self-heating by coal or other material; or  
       (c) any other condition from which danger to the mine or to the safety or health of persons employed thereat may be apprehended,

20 shall be recorded by the check inspector in a book (to be kept at the mine by the manager of the mine for that purpose) on the day of the inspection and before he leaves the mine following the inspection.

(2) If any report recorded under subsection (1) in respect of a mine states the existence, or suspected existence, of any danger, the manager of the mine shall forthwith orally inform the district inspector of the contents 25 of the report and cause a copy of the report to be sent to the district inspector.

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**District check inspectors.**

77. (1) A person may be elected as the district check inspector for a mine.

(2) The Minister, on the recommendation of the Chief Inspector, 5 may authorise a district check inspector who is the holder of a certificate of competency to be a deputy to exercise the power referred to in subsection (3).

(3) If a district check inspector for a mine, being a district check inspector who is for the time being authorised under subsection (2), is of 10 the opinion that—

(a) there has been a failure to comply with a provision of this Act, the regulations, the rules or any schemes or any directions, or conditions of exemptions or approvals, given thereunder; and

15 (b) because of that failure there is a danger to the safety or health of persons employed at a place at the mine,

he may serve on the most senior mining official who is responsible for, and who is at or near, that place a notice—

(c) stating that he is of the opinion;

(d) giving particulars of his reasons for being of that opinion; and

20 (e) giving particulars of the action which, in his opinion, should be taken to remove the danger;

and, by way of that notice, direct that any operations being carried on at the place be suspended.

(4) A notice under subsection (3) shall, if a form has been approved 25 for the purposes of this section, be in that form.

(5) A mining official at a mine who is given a direction under subsection (3) shall forthwith—

(a) comply with the direction; and

30 (b) if he is not the most senior mining official at the mine, advise the most senior mining official at the mine that he has been given the direction.

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(6) Where a direction under subsection (3) is given to a mining official at a mine, the most senior mining official at the mine shall orally advise an inspector of the giving of the direction.

5 (7) A direction given under subsection (3) shall cease to have effect—

- (a) on inspection by an inspector of the place to which it relates; or
- (b) on withdrawal, by instrument in writing, of the direction by the district check inspector by whom it was given.

(8) A mining official who fails to comply with a direction given to 10 him under subsection (3) shall be guilty of an offence against this Act.

(9) Notwithstanding that a direction has been given to a mining official at a mine under subsection (3), the manager of the mine may cause work to be carried out in the place to which the direction relates for the purpose of preventing or mitigating danger.

### 15 Election of district check inspectors.

78. For the purposes of section 77, regulations may be made prescribing—

- (a) the persons, or class of person, entitled to vote at an election under that section; and
- 20 (b) the manner in which an election under that section shall be held.

### District check inspector may act as check inspector.

79. (1) Where 2 persons have not been elected as check inspectors for a mine in accordance with this Division, a district check inspector elected for the mine in accordance with this Division may act as a check inspector 25 for the mine.

(2) Not more than one district check inspector shall act as a check inspector for a mine at the one time.

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**Electrical check inspectors.**

80. (1) For the purposes of enabling inspections of electrical equipment to be carried out at a mine on behalf of the persons employed at the mine, a person may be elected as an electrical check inspector for the mine.

5 (2) A person elected under subsection (1) shall—

(a) be the holder of a mine electrical engineer's certificate of competency, a trade rights certificate or an indenture of electrical tradesman; and

10 (b) where the person is the holder of a trade rights certificate or an indenture of electrical tradesman—have not less than 5 years' experience in coal mines in New South Wales.

(3) Not more than one electrical check inspector shall be elected for a mine.

(4) The same person may be elected as an electrical check inspector 15 for 2 or more mines.

**Election of electrical check inspectors.**

81. For the purposes of section 80, regulations may be made prescribing—

20 (a) the persons, or class of person, entitled to vote at an election under that section; and

(b) the manner in which an election under that section shall be held.

**Powers of electrical check inspectors.**

82. (1) Subject to subsection (2), an electrical check inspector shall be 25 allowed to inspect the electrical equipment at a mine for which he has been elected.

(2) Sections 73 (2), (3) and (4), 74 and 75 apply, in respect of a mine, to and in respect of electrical check inspectors in the same way as they apply to and in respect of check inspectors for a mine.



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**Reporting of dangers.**

83. (1) The finding, during any inspection of a mine by an electrical check inspector, of any danger, or suspected danger, to the mine or to the safety or health of persons employed thereat shall be recorded by the electrical  
5 check inspector in a book (kept at the mine by the manager of the mine for that purpose) on the day of the inspection and before he leaves the mine following the inspection.

(2) If any report under subsection (1) in respect of a mine states the existence, or suspected existence, of any danger, the manager of the mine  
10 shall forthwith cause a copy of the report to be sent to the district inspector.

**Notification of election.**

84. A person elected as a check inspector, district check inspector or electrical check inspector for a mine shall—

- 15 (a) notify the manager of the mine and the district inspector of his election; and
- (b) furnish to them his address and telephone number.

*DIVISION 5.—Notification of accidents and dangerous occurrences.***Interpretation.**

85. In this Division—
- 20 “dangerous occurrence” means an occurrence which is specified in the regulations as being a dangerous occurrence;
- “serious bodily injury” means an injury which is specified in the regulations as being a serious bodily injury.

**Notification of accidents.**

25 86. (1) Where an accident occurs at a mine, being an accident which causes the death of, or serious bodily injury to, a person, the manager of the mine shall—

- (a) forthwith give oral notice of the accident to the district inspector and to the district check inspector; and

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- (b) within 24 hours next after the accident send a written notice to the district inspector and to the district check inspector stating—
- (i) the nature of the accident;
  - (ii) the names of the persons killed or injured; and
  - (iii) the number of persons killed or injured.

(2) If a form is approved for the purposes of subsection (1) (b), a notice referred to in that paragraph shall be in or to the effect of that form.

**Notice of death following injury.**

87. Where—

- (a) an accident causing serious bodily injury is notified under section 86 in respect of a mine; and
- (b) a person injured as a result of the accident dies after the notification is given,

notice of the death shall, as soon as it comes to the knowledge of the manager of the mine, be given by him to the district inspector and the district check inspector.

**Accidents involving persons not employed by the owner of a mine.**

88. Where—

- (a) a person employed at a mine dies or suffers serious bodily injury as a result of an accident at the mine; and
- (b) the owner of the mine is not the actual employer of that person, the actual employer shall immediately report the accident to the manager of the mine.

**Notification of dangerous occurrences.**

89. (1) Where there is a dangerous occurrence at a mine, whether death or serious bodily injury is caused or not, the manager of the mine shall—
- (a) forthwith give oral notice of the dangerous occurrence to the district inspector and to the district check inspector; and

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(b) within 24 hours next after the occurrence send a written notice to the district inspector and to the district check inspector stating the nature of the occurrence.

(2) If a form is approved for the purposes of subsection (1) (b), a 5 notice referred to in that paragraph shall be in or to the effect of that form.

**Place of accident, etc., not to be disturbed.**

90. (1) Subject to subsection (2), where there is at a mine—

- (a) an accident causing death or serious bodily injury; or
- (b) a dangerous occurrence,

10 no person shall disturb, or direct another person to disturb, the place of the accident or dangerous occurrence, or tamper with anything at that place, before—

- 15 (c) the expiration of 2 clear days after the first notification of the accident or dangerous occurrence is given in accordance with this Division; or
- (d) that place has been visited by both an inspector and check inspector,

whichever first occurs.

(2) Nothing in subsection (1) shall prohibit—

- 20 (a) the doing of anything by or with the consent of an inspector; or
- (b) the doing of anything necessary for ensuring the safety of the mine or any part of the mine or of any persons at the mine.

**Inspectors to visit mine as soon as practicable.**

25 91. The inspector and check inspector to whom notice of an accident or a dangerous occurrence at a mine has been given under this Division shall visit the mine as soon as practicable after receipt of the notice and complete their examinations and inspections as expeditiously as the circumstances permit.

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**Location and nature of accidents to be recorded.**

92. (1) The manager of a mine shall cause a notation to be made on the plan of the mine kept in accordance with the regulations indicating the location of any accident at the mine causing death or serious bodily injury.
- 5 (2) The manager of a mine shall record the nature of any accident at the mine causing death or serious bodily injury in a book of an approved type kept by him at the mine.

DIVISION 6.—*Investigation of accidents and dangerous occurrences.***Interpretation.**

- 10 93. In this Division, “dangerous occurrence” and “serious bodily injury” have the same meaning as in Division 5.

**Minister may require special reports.**

94. Where there is at a mine—
- (a) an accident causing death or serious bodily injury; or
- 15 (b) a dangerous occurrence,
- the Minister may—
- (c) at that time or some later time direct an inspector to make a special report with respect to the accident or dangerous occurrence; and
- 20 (d) if he thinks fit, cause the report to be made public at such time and in such manner as he thinks fit.

**Minister may direct the court to hold a formal investigation.**

95. (1) Where it appears to the Minister that a formal investigation of any—
- 25 (a) accident causing death or serious bodily injury at a mine and its causes and circumstances;

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- (b) dangerous occurrence at a mine and its causes and circumstances;  
or
- (c) practice at a mine which, in the opinion of the Minister, adversely  
affects or is likely to adversely affect the safety or health of persons  
5 employed at the mine,

is necessary, the Minister may direct a court to hold the investigation.

(2) Where a court is directed under subsection (1) to hold an investigation in respect of an accident, a dangerous occurrence or a practice at a mine, it shall hold the investigation—

- 10 (a) in open court; and
  - (b) in such manner and under such conditions as the court may think most effectual for—
    - (i) ascertaining the causes and circumstances of the accident or dangerous occurrence; or
    - 15 (ii) determining whether the practice adversely affects or is likely to adversely affect the safety or health of persons employed at the mine,
- and enabling the court to make its report to the Minister as required by section 98.

## 20 Powers of court.

96. A court shall have, for the purpose of an investigation under this Division, all the powers of an inspector under this Act and, in addition, the following powers:—

- 25 (a) by summons signed by the court, to require the attendance of such persons as it thinks fit to call before it and examine;
- (b) to require answers or returns to such inquiries as it thinks fit to make;
- (c) to require the production of such books, papers, plans and documents as it thinks fit;
- 30 (d) to require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

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**Witnesses' expenses.**

97. (1) Persons attending as witnesses at an investigation held by a court under this Division shall be allowed such expenses as would be allowed to witnesses attending before the Supreme Court in its common law jurisdiction.

(2) In the case of a dispute as to the amount of expenses to be allowed under subsection (1), the matter shall be referred by the court to the Prothonotary, who, on a request signed by the court, shall ascertain and certify the proper amount of the expenses.

**10 Report to Minister.**

98. A court shall, upon the holding of an investigation under this Division in respect of an accident, a dangerous occurrence or a practice at a mine, make a report to the Minister, stating—

- 15 (a) the causes of the accident or dangerous occurrence and its circumstances; or  
(b) its findings in relation to the practice,

as the case may require, and adding any observations which the court thinks right to make.

**Costs of investigation.**

20 99. All expenses incurred in, or in connection with, an investigation under this Division (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Minister in the execution of this Act.

**Offences.**

25 100. A person shall not, without reasonable excuse (proof whereof shall lie on him), either—

- (a) fail, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this Division; or

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(b) prevent or impede a court in the execution of its duty.

Penalty: \$500.

DIVISION 7.—*Rules and schemes.*

**Transport rules.**

5 **101. (1)** The manager of a mine shall make rules (to be known as “transport rules”), not inconsistent with this Act, with respect to the use of vehicles at the mine.

(2) Without limiting the generality of subsection (1), the manager of a mine shall, under that subsection—

10 (a) if the mine is an underground mine—make transport rules with respect to such matters as are prescribed for the purposes of this paragraph; and

(b) if the mine is an open cut mine—make transport rules with respect to such matters as are prescribed for the purposes of this paragraph.

**15 Support rules.**

**102. (1)** The manager of an underground mine shall make rules (to be known as “support rules”), not inconsistent with this Act, with respect to the support of the roof and sides of working places and roadways in the mine.

20 (2) Where support of the roof and sides of working places and roadways in an underground mine is to be removed under the system of mining in use at the mine, the manager of the mine shall include in the rules made under subsection (1) rules, not inconsistent with this Act, for the removal of that support.

25 (3) Without limiting the generality of subsections (1) and (2), the manager of a mine shall—

(a) under subsection (1)—make support rules with respect to such matters as are prescribed for the purposes of this paragraph; and

(b) under subsection (2)—make support rules with respect to such matters as are prescribed for the purposes of this paragraph.

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**Schemes for the testing of electrical or mechanical apparatus.**

**103. (1)** The manager of a mine shall prepare a scheme for the systematic examination or testing of electrical apparatus and mechanical apparatus at the mine.

**5 (2)** Without limiting the generality of subsection (1), the manager of a mine shall include in a scheme prepared under that subsection provisions with respect to such matters as are prescribed for the purposes of this subsection.

**Other rules or schemes.**

**10 104. (1)** Regulations may be made requiring the manager of a mine to make rules or prepare a scheme in relation to any subject-matter which—

(a) concerns the safety, health, conduct or discipline of persons in mines; and

(b) is prescribed for the purposes of this section,

**15** not being a subject-matter in respect of which rules are required to be made or a scheme prepared under any other provision of this Act.

**(2)** Without limiting the generality of subsection (1), the manager of a mine shall, in respect of a subject-matter prescribed under subsection (1)—

**20 (a)** make, under that subsection, rules with respect to such matters as are prescribed for the purposes of this paragraph in respect of that subject-matter; or

**25 (b)** include in a scheme prepared under that subsection provisions with respect to such matters as are prescribed for the purposes of this paragraph in respect of that subject-matter,

as the case may require.

**Copies of rules and schemes to be sent to the district inspector.**

**105. (1)** The manager of a mine shall send to the district inspector within 7 days of—

**30 (a)** making any rules, or any alteration thereto, under this Division; or



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(b) preparing a scheme, or any alteration thereto, under this Division, a copy of the rules, scheme or alteration.

(2) A district inspector shall, within 28 days of the receipt of rules, a scheme or an alteration sent to him by the manager of a mine under subsection (1)—

- (a) serve on the manager a notice confirming the rules, scheme or alteration; or
- (b) take action under section 106 in respect of the rules, scheme or alteration.

**10 District inspector may require changes to rules and schemes.**

**106.** If a district inspector is of the opinion that, in respect of any rules or a scheme made or prepared under this Division for a mine—

- (a) provision ought to be made in those rules or that scheme for any matter for which provision is not made; or
- 15 (b) that a provision different from a provision of those rules or that scheme ought to be made,

he may serve on the manager of the mine a notice—

- (c) stating that he is of that opinion; and
- 20 (d) requiring the manager, before the expiration of such period as is specified in the notice, to take such action to change those rules or that scheme as is specified in the notice.

**Appeal to Chief Inspector.**

**107. (1)** The manager of a mine may, within 14 days of the service on him of a notice under section 106, appeal to the Chief Inspector against the 25 notice.

(2) The Chief Inspector shall, within 21 days of the receipt of an appeal under subsection (1), revoke, vary or confirm the notice appealed against.

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**Appeal to court (support rules).**

**108.** (1) The manager of a mine who is dissatisfied with any decision of the Chief Inspector in respect of support rules or alterations thereto may, within 14 days of being notified of the decision, appeal to a court against  
5 the decision.

(2) A court may revoke, vary or confirm a notice under section 106 in respect of which an appeal has been made under subsection (1).

**Manager to comply with notice.**

**109.** The manager of a mine served with a notice under section 106  
10 shall—

(a) unless he appeals under section 107 or sections 107 and 108 against the notice, comply with the notice; and

(b) if he appeals under section 107 or sections 107 and 108 against  
15 the notice and the notice is not revoked by the Chief Inspector or a court, comply with the notice or the notice as varied by the Chief Inspector or a court, as the case may be.

**Date of effect of rules or schemes.**

**110.** Any rules or a scheme made or prepared under this Division, or an alteration thereto, in respect of a mine shall take effect—

20 (a) from the date that is 7 days after the date of service of a notice of confirmation under section 105 (2) (a) in respect thereof; or

(b) where—

(i) a notice in respect thereof is served on the manager of the mine under section 106; and

25 (ii) the notice is revoked by the Chief Inspector or a court on appeal under section 107 or 108,

from the date that is 7 days after the date of revocation of the notice.

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**Copies of rules and schemes to be available.**

111. (1) A copy of all rules and schemes made or prepared under this Division for the time being in force in respect of a mine shall be kept by the manager of the mine at the office of the mine and be made available 5 for inspection by persons employed at the mine.

(2) The manager of a mine shall cause notices containing a summary of so much of the rules or schemes made or prepared under this Division as affects any person to be kept exhibited at suitable places at the mine so that they may be easily seen and read by that person.

10 (3) The manager of an underground mine shall cause copies of all support rules in force in respect of a mine—

(a) to be kept exhibited—

(i) at the surface of the mine in such a position as to be easily seen and read by the persons employed at the mine; and

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(ii) at the deputy's station for the district in which the mine is situated in such a position as to be easily seen and read by any persons attending the station; and

(b) to be supplied to such persons employed at the mine who, in his 20 opinion, have need to refer to them in the performance of their duties.

**Officials and other persons to comply with rules and schemes.**

112. Any official or other person employed at a mine shall comply with the rules and schemes made or prepared under this Division in force 25 in respect of the mine.

**Form of rules or schemes.**

113. Rules or schemes made or prepared under this Division—

(a) shall be in such form; and

(b) shall be made or prepared subject to such qualifications,

30 as may be prescribed.

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DIVISION 8.—*Training rules.***Manager of mine to ensure that employees undertake training.**

114. The manager of a mine shall ensure that persons employed or to be employed at the mine undertake training in accordance with the provisions of—

- (a) any training scheme approved by the Joint Coal Board in respect of the mine pursuant to any order made or given by the Joint Coal Board; and
- (b) any training rules made pursuant to section 115.

**10 Making of training rules.**

115. Where the Minister is of the opinion that further provisions should be made for the training and instruction of persons employed or to be employed at a mine in addition to the provisions of any training scheme approved by the Joint Coal Board in respect of the mine pursuant to an order made or given by the Joint Coal Board, he may direct the manager of the mine to make training rules to include those further provisions.

**Appeal to court.**

116. Where a manager of a mine objects to complying with any direction given by the Minister pursuant to section 115, he may, within 21 days of service of the direction, appeal to a court.

**Copy of training schemes to be sent to the district inspector.**

117. The manager of a mine shall forward a copy of any training scheme referred to in section 114 (a) in respect of the mine and any amendments thereto to the district inspector within 28 days of the training scheme's being approved by the Joint Coal Board.

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**Copy of training rules to be sent to the district inspector.**

**118.** The manager of a mine shall forward a copy of any training rules made in pursuance of section 115 to the district inspector within 7 days of the making thereof.

**5 Training certificates.**

**119. (1)** A record of the training given to a person at a mine under a training scheme or training rules referred to in this Division shall be kept by the manager of the mine at the office of the mine until the expiration of a period of 12 months after the termination of that person's employment.

**10 (2)** The manager of a mine may, at the request of a person employed, or formerly employed, at the mine issue to that person a certificate indicating that the person has been given the training specified in the certificate.

**Employees to comply with training rules.**

**15 120.** Any persons employed at a mine who are required to undertake training by the training rules for that mine shall comply with those rules.

**DIVISION 9.—Closing of shafts and outlets in abandoned mines.****Closing of shafts and outlets.**

**20 121. (1)** The owner of a mine shall—

(a) cause the surface entrance to every shaft or outlet at the mine which is not being used to be provided, within 30 days of the cessation of use, with an enclosure, barrier, plug or seal and cause that enclosure, barrier, plug or seal to be properly maintained; and

**25 (b)** prior to the abandonment of the mine cause the surface entrance to every shaft or outlet thereof to be provided with an approved enclosure, barrier, plug or seal.

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(2) Where the owner of a mine is not the occupier of the land on which work is required to be carried out under subsection (1), the owner of the mine shall give reasonable notice to the occupier of the land before causing the work to be carried out.

**5 Obstruction of owner of mine.**

**122.** An occupier of land or other person shall not wilfully obstruct the owner of a mine or any other person in doing any act required to be done by or under section 121 (1).

**Certain unenclosed shafts or outlets to be public nuisances.**

10 **123.** Any shaft or outlet of a mine which is not provided with an enclosure, barrier, plug or seal as required by section 121 and which—

(a) is within 50 metres of any highway, road, footpath or place of public resort; or

(b) is in open or unenclosed land,

15 shall be deemed to be a public nuisance for the purposes of section 288 of the Local Government Act, 1919.

**Owners of land on which abandoned mines are situated may be required to close shafts and outlets.**

20 **124. (1)** The Minister may cause to be served on the owner of land on which is situated any shaft or outlet of an abandoned mine, which shaft or outlet is not provided with an approved enclosure, barrier, plug or seal, a direction requiring that owner to erect an approved enclosure, barrier, plug or seal within the period specified in the direction.

25 **(2)** A person to whom a direction is given under subsection (1) shall comply with the direction.

**(3)** If a person to whom a direction is given under subsection (1) does not comply with the direction within the period specified in the direction, the Minister may cause the work specified in the direction to be carried out.

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(4) Any costs or expenses incurred by the Minister under subsection (3) in carrying out any work specified in a direction given under subsection (1) shall be a debt due to the Crown by the person to whom the direction was given and shall be recoverable in a court of competent jurisdiction.

5 (5) In any proceedings instituted for the recovery from a person of a debt due by that person to the Crown under subsection (4), a certificate of the Minister that a specified amount is the amount of the debt so due shall be evidence of that fact.

(6) A debt due by any person to the Crown under subsection (4) is  
10 recoverable notwithstanding that that person is convicted of an offence under subsection (2).

(7) A person to whom a direction is given under subsection (1), or any person authorised by the Minister for the purposes of subsection (3), may, upon giving reasonable notice to the occupier of the land, enter on or  
15 remain on any land for the purpose of complying with the direction or with subsection (3), as the case may require.

(8) This section does not apply to the owner of land on which is situated—

- (a) a mine abandoned before the commencement of this section; or
- 20 (b) a mine the subject of a concession under the Coal Mining Act, 1973.

DIVISION 10.—*Control of emplacement areas.*

**Interpretation.**

125. (1) In this Division, except in so far as the context or subject-matter  
25 otherwise indicates or requires—

“emplacement area” means—

- (a) any pile, heap, hole, excavation or place in which or on which reject (whether in a solid state or in a solution or suspension) is piled, heaped, dumped, accumulated,  
30 deposited or placed; and

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(b) any wall or other structure which retains or confines reject, whether or not that wall or structure is itself composed of reject,

5 but does not include an accumulation or deposit of reject situated underground;

“owner”, in relation to an emplacement area, means the occupier of any land on which the emplacement area is situated, whether the emplacement area is in use or not;

10 “reject” means any carbonaceous material, whether it is mixed with or attached to stone or not, which is left after the treatment of coal in a coal preparation plant or which is not dealt with as coal by the owner of a mine.

(2) For the purposes of this Division, an emplacement area—

15 (a) shall be deemed to be in use if its use has not been discontinued pursuant to section 127 (1) or 128 (5); and

(b) shall be deemed to be kept secure if—

(i) it is not unstable;

(ii) it is not on fire; and

(iii) no noxious water is escaping from it.

## 20 Establishment of emplacement areas.

126. (1) A person shall not establish any emplacement area after the commencement of this Division except with the approval of the Minister and in such manner and subject to such conditions as he may determine.

(2) The Minister's approval under subsection (1) may be granted 25 without limit as to time or may be for a specified period.

(3) A person applying for the Minister's approval under this section shall furnish such information, documents and plans as the Minister may require.



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**Discontinuance of use of emplacement areas.**

127. (1) A person who has established an emplacement area pursuant to an approval granted under section 126 shall not discontinue to use that emplacement area without the Minister's approval.

5 (2) Notwithstanding the provisions of subsection (1), the district inspector may grant approval to cease using an emplacement area established pursuant to an approval granted under section 126 for a period not exceeding 6 months subject to such conditions as he may determine.

10 (3) A person shall not re-commence using an emplacement area which he has ceased using by virtue of an approval granted under subsection (2) without the consent of the district inspector.

**Emplacement areas in use at the commencement of this Division.**

128. (1) The owner of an emplacement area in use at the commencement of this Division who intends to discontinue using that area for a period in  
15 excess of 6 months shall notify the district inspector of his intention to do so and shall furnish him with such particulars as may be prescribed.

(2) A district inspector who has been notified under subsection (1) by the owner of an emplacement area may direct the owner to carry out such steps as may be specified for the purpose of making the area secure.

20 (3) The owner of an emplacement area established before the commencement of this Division which has not been in use for a period (commencing before or after that commencement) in excess of 6 months, or to which a notice under subsection (4) applies, shall not use that area without the consent of the district inspector.

25 (4) The district inspector may, by notice served on the owner of an emplacement area established before the commencement of this Division which has not been in use for a period (commencing before or after that commencement) in excess of 6 months, declare that area to be no longer in use.

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(5) The Minister may, by notice served on the owner of an emplacement area established before the commencement of this Division, direct that that area be no longer used after a date specified in the notice and that the owner take such steps as may be specified for the purpose of making the area  
5 secure.

**Construction and use of emplacement areas.**

129. (1) This section applies to emplacement areas whether established before or after the commencement of this Division.

(2) An emplacement area shall—

- 10 (a) be constructed, or the construction thereof shall be continued, as the case may be, in accordance with sound engineering practice;
- (b) be compatible with the environment; and
- (c) be kept secure.

(3) The owner of an emplacement area shall take such steps as may  
15 be necessary to ensure that he is at all times in possession of all information relevant to the performance of his duties under this section.

(4) The district inspector may, by notice served on the owner of an emplacement area, require the owner, whether the emplacement area is in use or not, to carry out such tests relating to the safety and security of  
20 the emplacement area as he may specify in the notice.

(5) The owner of an emplacement area shall furnish to the district inspector the results of any tests carried out in compliance with subsection  
(4).

(6) The district inspector may, by notice served on the owner of  
25 an emplacement area which is in use, require him to furnish plans of the emplacement area and plans of future dumping operations.

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**Tipping rules.**

130. (1) The owner of an emplacement area which is in use shall make rules (to be known as "tipping rules"), not inconsistent with this Act or any directions which the Minister or the district inspector may make or give under this Act, which shall specify the manner in which reject is to be deposited on or in the emplacement area and the nature of reject to be so deposited.

(2) The provisions of sections 105, 106, 107, 109 and 110 apply to rules made under subsection (1) in the same way as they apply to rules in respect of mines under Division 7.

(3) For the purposes of subsection (2), a reference in sections 105, 106, 107, 109 and 110 to the manager of a mine shall be deemed to be a reference to the owner of an emplacement area.

**Appeal to court against Minister's decision.**

131. Where a person is dissatisfied with any decision of, or any direction given by, the Minister under this Division, he may, within such period as may be prescribed, appeal to a court against that decision or direction.

**Objections to Chief Inspector against inspector's requirements.**

132. (1) Where the owner of an emplacement area objects to complying with any notice given by a district inspector pursuant to this Division (other than a notice for the purposes of section 129 (6)), he may, within 21 days of the service of the notice, object to the Chief Inspector in writing giving the reasons for his objection.

(2) On receipt of an objection referred to in subsection (1), the Chief Inspector may revoke, confirm or amend any notice given or requirement made therein by the district inspector.

*Coal Mines Regulation.***Date of effect of decisions, etc.**

**133.** Where there is a right of appeal or objection against a decision or notice under this Division, the decision or notice shall take effect—

- 5 (a) where no appeal or objection is lodged within the period prescribed—  
—from the expiration of that period; or
- (b) where an appeal or objection is lodged and the decision or notice is not revoked—from the date of the final decision made on that appeal or objection,

and, if varied or amended on appeal or objection, shall take effect as varied  
10 or amended.

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**PART V.**
**OPERATION OF MINES.****DIVISION 1.—*Notice of operations, etc.*****Notice of commencement, discontinuance, etc., of operations.**

15 **134. (1)** The owner of a mine shall, in respect of the mine, give notice in writing to the district inspector of—

- (a) the commencement of operations for the purposes of opening of an underground mine or a seam therein;
- (b) the abandonment of an underground mine or a seam therein;
- 20 (c) the discontinuance of operations at an underground mine or in a seam therein;
- (d) the fact that an underground mine or a seam therein has not been worked for a period of 2 months;
- 25 (e) the resumption of the working of an underground mine or a seam therein which has not been worked for a period of 2 months;
- (f) the discontinuance of the use of a shaft or outlet of an underground mine;

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- (g) the resumption of the use of a shaft or outlet of an underground mine;
- (h) the commencement of operations for the purposes of opening an open cut mine or a seam therein;
- 5 (i) the abandonment of an open cut mine;
- (j) the discontinuance of operations at an open cut mine;
- (k) the fact that an open cut mine has not been worked for a period of 2 months; and
- 10 (l) the resumption of the working of an open cut mine or a seam therein which has not been worked for a period of 2 months.

(2) A notice under subsection (1) in respect of an event specified in paragraph (a)–(c), (e)–(j) or (l) of that subsection shall be given within 14 days of the happening of the event.

15 (3) A notice under subsection (1) in respect of a fact specified in paragraph (d) or (k) of that subsection shall be given within 14 days after the expiration of the period of 2 months referred to in that paragraph in relation to that fact.

### **Drilling of boreholes.**

20 **135.** (1) Subject to subsection (4), any person who, at a mine, proposes to drill a borehole, or extend an existing borehole, for the purpose of proving coal shall, before commencing work, notify the Chief Inspector of his intention to do so and furnish to him particulars of the location of the borehole.

(2) A person referred to in subsection (1) shall furnish such additional particulars in relation to a borehole as the Chief Inspector may 25 require.

(3) A requirement under subsection (2) may be made either before or after the commencement of the work to which the requirement relates.

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(4) This section does not apply to boreholes put down to determine—

- (a) the extent of overburden; or
- (b) the thickness and quality of coal,

5 for the purpose of open cut workings where the occurrence of coal has previously been proved.

**Cores and samples.**

10 **136.** (1) Subject to subsection (6), where a person obtains a core in the course of drilling any borehole to which section 135 applies, the core (except any material used for analysis) and any samples obtained therefrom shall be labelled and properly stored by the person on the completion of the borehole.

(2) Cores and samples labelled and stored as required under subsection (1) shall at all times be available for examination by an inspector or an officer of the Department of Mineral Resources.

15 (3) Portions of cores or samples labelled and stored as required under subsection (1) may be taken by an inspector or officer referred to in subsection (2) for the purpose of analysis or other examination.

(4) Any information obtained by any person as the result of any action taken under subsection (2) or (3) shall not be made public without  
20 the consent of the person carrying out the drilling from which the cores or samples were obtained unless the Chief Inspector directs otherwise.

(5) If a person who has obtained cores or samples in the course of drilling any borehole to which section 135 applies proposes to dispose of the cores or samples—

- 25 (a) he shall advise the Chief Inspector in writing; and
- (b) the Chief Inspector may take possession of the cores and samples within 28 days after being given that notice.

(6) This section does not apply to boreholes or sections of boreholes sunk in surface gravel or alluvial ground.

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**Backfilling or sealing of boreholes.**

**137.** Where any borehole to which section 135 applies is—

- 5
- (a) drilled from the surface or from underground—it shall, upon completion, be completely backfilled with material of an approved type unless otherwise directed by the Chief Inspector; or
  - (b) drilled from under water—it shall, upon completion, be sealed completely in the presence of an officer authorised by the Chief Inspector.

DIVISION 2.—*Methods or systems of working mines.*

**10 Bord and pillar system to be used in underground mines.**

**138. (1)** No method of mining other than the bord and pillar system shall be used in an underground mine except with the approval of the Minister given on the recommendation of the Chief Inspector and subject to such conditions as he may impose.

15           **(2)** Where the bord and pillar system of mining is used—

- (a) the pillars shall be of such dimensions as may be prescribed;
- (b) the width of the roadways, bords, cut-throughs, headings and pillar splits shall not exceed the prescribed width;
- 20           (c) the Chief Inspector may approve or direct a variation in the dimensions of pillars;
- (d) the Chief Inspector may approve or direct a variation in the width of the roadways, bords, cut-throughs, headings or pillar splits; and
- 25           (e) pillars shall not be removed except with the approval in writing of the Minister and subject to such conditions as he may impose.

**(3)** For the purposes of this section, a pillar shall be deemed to have been removed if its dimensions are reduced to less than—

- (a) the prescribed dimensions; or

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- (b) such other dimensions as the Chief Inspector has approved or directed pursuant to subsection (2) (c).

**Barriers and protective pillars.**

139. (1) The owner of a mine shall not mine or cause to be mined any 5 seam of coal in the mine without leaving a barrier of the specified width—

- (a) against the external boundaries of the colliery holding in which the mine is situated;
- (b) against any outcrop of the seam; and
- 10 (c) between any underground workings and any open cut working situated within the colliery holding in which the mine is situated.

(2) For the purpose of subsection (1), the specified width is 20 metres or such other distance as the Minister may specify in a direction given to the owner, the superintendent or the manager of the mine.

(3) The Minister, on the recommendation of the Chief Inspector, 15 may direct the owner, the superintendent or the manager of a mine to—

- (a) leave in the mine a barrier of such width as is specified in the direction against the mean high water mark of tidal waters; and
- 20 (b) leave in the mine a protective pillar of such dimensions as are specified in the direction against surface improvements or features, whether natural or artificial, including mine workings, whether discontinued or otherwise.

(4) In making a direction under subsection (2) or (3), the 25 Minister—

- (a) may fix the width of a barrier in respect of any seam or portion of a seam within a mine and specified in the direction or in respect of all the seams within a mine or all seams within a mine other than those so specified; and
- 30 (b) shall so fix the width of a barrier in respect of any seam so that a barrier of not less than 40 metres shall be maintained between workings of adjacent mines.



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(5) Where any workings in a mine encroach on any barrier or protective pillar required to be provided pursuant to—

(a) this section; or

5 (b) any conditions contained in any lease granted under the Coal Mining Act, 1973,

the Minister may, if the Chief Inspector recommends that it is necessary to do so in order to ensure the safety of the employees in the mine or in any mine adjoining the mine, direct the owner, the superintendent or the manager of the mine to carry out such works as the Minister thinks fit  
10 within the time specified in the direction.

(6) The Minister may, on the recommendation of the Chief Inspector, grant approval, subject to such conditions as he considers necessary, to the manager of a mine to mine any barrier or protective pillar provided pursuant to this section.

### 15 Seams liable to spontaneous combustion.

140. (1) Where a seam in any mine or part thereof gives, or has given, evidence of being liable to spontaneous combustion, no person shall mine that seam in that mine except with the approval of the Chief Inspector and subject to such conditions as he considers necessary.

20 (2) Where, in a mine or part thereof, a seam which the Chief Inspector believes may be liable to spontaneous combustion is to be mined, he may cause to be served on the owner, the superintendent or the manager of the mine a notice specifying conditions under which that seam may be mined in that mine or part thereof.

25 (3) Where a mine or part thereof has been sealed off on account of self-heating or a fire—

(a) the mine or part thereof shall not be re-entered or any seal broken unless notice of intention to do so has been given in writing to the district inspector and a check inspector at least 48 hours before  
30 the re-entry or breaking is effected; and

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(b) in a case where part of a mine has been sealed off, any re-entry to that part of the mine shall be made at a time when there is a minimum number of persons in the mine.

(4) Where the Chief Inspector refuses to give his approval under subsection (1) in respect of a mine or the owner, the superintendent or the manager of the mine is dissatisfied with any conditions imposed under that subsection or subsection (2), the owner, the superintendent or the manager may appeal to a court against the refusal or the imposition of the conditions.

**Methane drainage system.**

10 141. (1) Where the Chief Inspector is of the opinion that it is desirable for the safer operation of a mine, he may, by notice in writing served on the manager of the mine, direct the establishment of a methane drainage system at the mine.

(2) A methane drainage system directed to be established in a  
15 notice served under subsection (1) shall comply with such conditions as to its design and operation as the Chief Inspector may specify in the notice.

(3) The Chief Inspector may by notice in writing served on the manager of a mine direct that safety precautions specified in the notice be taken in the disposal of methane recovered from the mine by means of a  
20 methane drainage system.

(4) Where the manager of a mine objects to complying with any direction under this section or any conditions imposed by the Chief Inspector, he may within 14 days of the service of the notice under subsection (1) or (3), as the case may be, appeal to a court against the direction or the  
25 imposition of the conditions.

**DIVISION 3.—Prospecting operations.****Interpretation.**

142. In this Division—

30 “drilling operations” means any drilling operations carried out in the course of searching for coal, and includes the preparation and restoration of drill sites;

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“prospecting area” means any land on which prospecting operations are carried on and which is subject to an authorisation or a concession granted under the Coal Mining Act, 1973, other than land on which is situated a mine;

5 “registered holder”, in relation to a prospecting area, means the person registered as the holder of an authorisation or concession granted under the Coal Mining Act, 1973, in respect of that area.

**Notification of commencement of drilling operations.**

143. The registered holder of a prospecting area shall, not less than 7  
10 days before the commencement of drilling operations on the area, notify the district inspector in writing of the proposed date of commencement of the drilling operations and advise the district inspector of—

- (a) particulars of the operations to be carried out;
- (b) the location of the prospecting operations; and
- 15 (c) the name of the person appointed as supervisor of the prospecting area in accordance with section 144.

**Supervisors of prospecting areas.**

144. (1) Subject to subsection (2), the registered holder of a prospecting  
20 area shall appoint a competent person to be supervisor of the prospecting area.

(2) A registered holder of a prospecting area who is an individual may nominate himself as supervisor of the prospecting area instead of appointing a person under subsection (1).

(3) The supervisor of a prospecting area shall, for the purposes  
25 of this Act, have full charge and control of all persons employed, and of all prospecting operations, in the prospecting area and shall enforce the observance, by persons employed in the prospecting area, of this Act, the regulations, the rules and any schemes made thereunder.

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**Application of the provisions of this Act or the regulations to prospecting areas.**

**145.** The Governor may make regulations providing that such of the provisions of this Act or the regulations—

5 (a) as may be prescribed; or

(b) as may be prescribed with such modifications as may be prescribed, shall apply to and in respect of prospecting areas in the same way, subject to such modifications as may be prescribed, as they apply to mines.

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**PART VI.****10 REGULATION OF TOURIST AND EDUCATIONAL ACTIVITIES IN MINES.****Interpretation.**

**146.** In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“mine” means—

15 (a) a mine as defined in section 5 which is not the subject of a coal lease under the Coal Mining Act, 1973; or

(b) an abandoned mine which was formerly a mine as defined in section 5 and which is not the subject of such a lease;

20 “owner”, in relation to an abandoned mine, means the occupier of the land on which the abandoned mine is situated;

“permit” means a permit which has been issued under section 148 and which has not been revoked under section 149.

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**Tourist activities in mines or use of mines for educational purposes not allowed without a permit.**

147. 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 5 educational purposes unless—

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

Penalty: \$500.

**Issue of permits.**

148. (1) The Minister may, upon application being made to him in writing, issue a permit to the owner of a mine which—

- 15 (a) authorises tourist activities to be conducted in or about the mine; or
- (b) authorises the mine to be used principally for educational purposes,

subject to such conditions as the Minister may specify in the permit.

- 20 (2) A permit shall not be issued under this section in respect of a mine unless the Minister is satisfied that all necessary precautions will be taken to protect the safety or health of persons entering the mine.

**Revocation or variation of permits.**

149. (1) The Minister may—

- 25 (a) revoke a permit where a condition to which the permit is subject is breached or where the Minister is satisfied that persons cannot enter the mine to which the permit relates without risk to their safety or health; or

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

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

5 (3) A revocation of a permit, a variation of conditions to which a permit is subject or the attachment of conditions or additional conditions to a permit does not take effect until notice of the revocation, variation or attachment is served on the owner of the mine to which the permit relates.

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PART VII.

10

LEGAL PROVISIONS.

DIVISION 1.—*Court of Coal Mines Regulation.*

**Constitution of a Court of Coal Mines Regulation.**

150. (1) The Governor may appoint a Judge of the District Court to sit as a Court of Coal Mines Regulation.

15 (2) Several Judges of the District Court may be appointed under subsection (1) to sit as several Courts of Coal Mines Regulation.

(3) Persons performing functions as officers of the District Court shall perform similar functions at, or in connection with, a Court of Coal Mines Regulation when required to do so by such a court.

20 **Assessors.**

151. (1) A court, when exercising the jurisdiction specified in section 152 (1) (a) or (d), shall sit with an assessor or 2 or more assessors appointed in accordance with the rules of court.

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(2) An assessor sitting with a court as referred to in subsection (1) shall have the power to advise the court but not to adjudicate on any matter before the court.

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(3) A court has the right to consult, either collectively or individually and either in public or in private, with assessors sitting with it.

(4) Fees payable to assessors under the rules of court shall be paid out of money provided by Parliament.

### 5 Jurisdiction of court.

152. (1) A court shall, in addition to any other function conferred or imposed upon it by or under this or any other Act, have power to hear and determine—

- 10 (a) matters arising from statements filed with the court under section 26;
- (b) in a summary manner, proceedings for offences against Division 2 of Part IV;
- (c) applications for orders made under section 68; and
- (d) appeals made to the court under this Act,

15 and to carry out, and make determinations in respect of, investigations under section 95.

(2) A court may make such orders as are necessary to give effect to its determinations.

20 (3) An offence against Division 2 of Part IV shall be dealt with by a court in accordance with the provisions of the Supreme Court (Summary Jurisdiction) Act, 1967, as if references in that Act to the Supreme Court were references to a court and references in that Act to rules were references to rules made under section 155.

25 (4) A court, when exercising the jurisdiction specified in subsection (1) (d), shall have power to revoke, vary or confirm any decision or direction appealed against.

(5) Subject to section 154, a determination or an order of a court shall be final and conclusive and shall not be liable to appeal or review.

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**Proceedings of court.**

**153.** (1) A court carrying out an investigation under section 95 may be assisted by a barrister or solicitor appointed by the court for that purpose.

(2) For the purposes of exercising its jurisdiction under this Act, a court shall have, in relation to summoning parties and compelling the attendance of witnesses and the production of documents, the same powers as the District Court.

(3) Subject to this Act, any person affected or liable to be affected by proceedings before a court may appear before, and shall be entitled to be heard by, the court.

(4) The Minister, the Chief Inspector, an inspector and an organisation or association representative of mining employers or employees may appear before, and shall be entitled to be heard by, a court dealing with a matter under this Act.

**15** (5) The awarding of costs in any proceedings before a court shall be in the discretion of the court.

(6) The decision of a court in any proceedings under this Act shall be delivered in open court.

**Appeals from court.**

**20** **154.** (1) A party to any proceedings before a court, other than proceedings arising under Division 2 of Part IV or section 95, may, on a question of law—

(a) appeal to the Supreme Court against a decision given in those proceedings; or

**25** (b) with the leave of the court, appeal to the Supreme Court during those proceedings.

(2) A person convicted by a court of an offence against Division 2 of Part IV may appeal to the Court of Criminal Appeal pursuant to the Criminal Appeal Act, 1912.



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(3) In any proceedings under Division 2 of Part IV, the Crown may, pursuant to the Criminal Appeal Act, 1912, submit any question of law arising at or in reference to the proceedings to the Court of Criminal Appeal.

(4) A party to any proceedings under section 68 may appeal to the Supreme Court against a decision given by a court in those proceedings.

**Rules of court.**

155. (1) The Judges of the District Court or any 3 of them may make rules regulating the procedure and practice of Courts of Coal Mines Regulation.

10 (2) Rules made under subsection (1) shall make provisions for or with respect to—

- (a) the appointment as assessors of persons having practical experience in coal mining in New South Wales;
- 15 (b) the nomination, by persons interested in proceedings before a court, of persons to be appointed as assessors;
- (c) the number of persons to be appointed assessors in any proceedings; and
- (d) the fees to be paid to persons appointed as assessors, for the purposes of section 151 (1).

20 (3) A rule may be made so as to apply differently according to such factors as may be specified in the rule.

(4) A rule shall—

- (a) be published in the Gazette;
- 25 (b) take effect on and from the date of publication or a later date specified in the rule; and
- (c) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

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(5) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a rule has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

5 (6) For the purposes of subsections (4) and (5), sitting days shall be counted, whether or not they occur during the same session.

(7) Judicial notice shall be taken—

(a) of a rule made or purporting to have been made under this section and published in the Gazette; and

10 (b) of the date of its publication.

(8) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule have been complied with and performed.

*DIVISION 2.—Offences and proceedings for offences.*

**15 Where proceedings taken.**

**156. (1)** Proceedings for an offence against this Act, Division 2 of Part IV excepted, the regulations, the rules or a scheme shall be disposed of summarily before a court of petty sessions presided over by a stipendiary magistrate.

20 (2) Proceedings for an offence against Division 2 of Part IV shall be disposed of summarily before a Court of Coal Mines Regulation.

**Time for taking proceedings.**

**157. (1)** Subject to subsections (2) and (3), an information in respect of an offence against this Act, the regulations, the rules or a scheme shall be laid  
25 within 6 months after the time when the offence was alleged to be committed.

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(2) Where, in respect of an accident or other occurrence in a mine—

- (a) an inspector makes a special report under section 94;
- (b) a court makes a report under section 98; or
- 5 (c) a coroner's inquest is held,

and it appears from the report or the proceedings at the inquest that an offence has been committed against this Act, the regulations, the rules or a scheme, an information in respect of the offence may be laid within 6 months after the time when the report was made or the inquest was concluded, as  
10 the case may be.

(3) An information in respect of an offence against section 62 (e), 138, 139 or 140 shall be laid within 2 years after the time when the offence was alleged to be committed.

#### **Continuing offences.**

15 **158.** Where an offence is committed against this Act, the regulations, the rules or a scheme by reason of a failure to give a notice, enter a report or do any other thing at a time or within a period specified in this Act, the regulations, the rules or a scheme or in an order or direction made or given thereunder, the offence shall be deemed to continue until the notice is given,  
20 the report is entered or the thing is done, as the case may be.

#### **Evidence.**

**159.** In any prosecution or legal proceedings instituted by an inspector, any writing purporting to be a copy of—

- (a) an instruction or delegation;
- 25 (b) a direction or notice;
- (c) a rule or scheme;
- (d) a certificate of competency;
- (e) an appointment of any official or person;

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- (f) an exemption from compliance with any requirement of this Act, the regulations, the rules or a scheme; or
- (g) an approval granted under this Act,  
and purporting to be certified by a prescribed officer as a true copy thereof  
5 shall be prima facie evidence—
- (h) of the terms of the instruction, delegation, direction, notice, rule, scheme, certificate of competency, appointment, exemption or approval; and
- (i) that it was duly granted or given and duly issued.

**10 Offences against Act, etc.****160.** A person who—

- 15 (a) being employed at a mine, wilfully interferes with any official of the mine or other person exercising his functions under this Act, the regulations, the rules or a scheme or any directions, or conditions of exemptions or approvals, given thereunder;
- 20 (b) negligently or wilfully does at a mine anything likely to endanger the safety of the mine or the safety or health of persons at the mine or negligently or wilfully omits to do at a mine anything necessary for ensuring the safety of the mine or the safety or health of persons at the mine;
- 25 (c) not being an official of a mine, without permission granted by such an official, removes, alters, or tampers with anything provided at the mine for the purpose of securing the safety or health of persons employed at the mine;
- 30 (d) being employed at a mine, contravenes any direction given to him by or on behalf of the owner or the manager of the mine for regulating the conduct either of all persons employed at the mine or of any class of person so employed to which that person belongs, being a direction given for the purpose of—
- (i) securing compliance with this Act, the regulations, the rules or a scheme having effect with respect to the mine; or
- (ii) securing the safety or health of that person or any other person employed at the mine;

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- (e) wilfully makes a false entry in any register, book, notice or other document required by or under this Act to be kept, served or given, or, with intent to deceive, makes use of any such entry which he knows to be false;
- 5 (f) in purported compliance with a requirement imposed by or under this Act to furnish any returns, statistics or other information or to inform a person of the substance of any instructions, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- 10 (g) discloses any returns, statistics or other information in contravention of this Act or the regulations;
- (h) falsely pretends to be an inspector or check inspector;
- (i) with intent to deceive, forges or uses or lends to, or allows to be used by, another person a certificate of competency granted under  
15 this Act or makes or has in his possession a document so closely resembling any such certificate as to be calculated to deceive;
- (j) for the purpose of obtaining for himself or another person—
- (i) the grant of any certificate of competency or the issue of a duplicate thereof or the restoration of any such certificate;  
20 or
- (ii) employment as a manager or under-manager of a mine or as a surveyor for a mine, or employment in any office at a mine, the appointment to which is required by virtue of this Act to be made by the manager of the mine,
- 25 makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or produces, furnishes, sends or otherwise makes use of a document which is false in a material particular;
- (k) without reasonable excuse, removes, injures or defaces a notice  
30 which is for the time being posted at a mine in pursuance of any provisions of this Act, the regulations, the rules or a scheme;
- (l) contravenes or fails to comply with any provision of this Act, the regulations, the rules or a scheme;
- (m) fails to exercise any function conferred or imposed on him by or  
35 under a provision of this Act, the regulations, the rules or a scheme;

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(n) fails to comply with a direction given to him by the Minister or by an inspector in accordance with a provision of this Act, the regulations, the rules or a scheme; or

5 (o) fails to comply with a condition imposed on him in accordance with a provision of this Act, the regulations, the rules or a scheme,

shall be guilty of an offence against this Act.

**Liability of owners, etc., where offence committed.**

**161. (1)** Subject to subsection (2), where, in relation to a mine, a person commits an offence against this Act, the owner, superintendent, assistant 10 superintendent, manager, deputy manager, under-manager in charge and under-managers of the mine also shall each be guilty of an offence against this Act.

(2) A person shall not, in relation to a mine, be guilty of an offence under subsection (1) in respect of an offence against this Act committed by 15 another person (in this subsection referred to as "the offender") where—

(a) the offender is the owner of the mine; or

(b) that person is an official listed in an order of seniority in Part A or Part B of Schedule 1 and the offender is senior, according to that order of seniority, to that person.

20 (3) Proceedings for an offence under subsection (1) shall be instituted only with the consent of the Minister given in writing.

(4) A person may be proceeded against and convicted under subsection (1) in respect of an offence committed by another person whether 25 that offence. or not that other person has been proceeded against for, or been convicted of,

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- (e) wilfully makes a false entry in any register, book, notice or other document required by or under this Act to be kept, served or given, or, with intent to deceive, makes use of any such entry which he knows to be false;
- 5 (f) in purported compliance with a requirement imposed by or under this Act to furnish any returns, statistics or other information or to inform a person of the substance of any instructions, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- 10 (g) discloses any returns, statistics or other information in contravention of this Act or the regulations;
- (h) falsely pretends to be an inspector or check inspector;
- (i) with intent to deceive, forges or uses or lends to, or allows to be used by, another person a certificate of competency granted under  
15 this Act or makes or has in his possession a document so closely resembling any such certificate as to be calculated to deceive;
- (j) for the purpose of obtaining for himself or another person—
- (i) the grant of any certificate of competency or the issue of a  
20 duplicate thereof or the restoration of any such certificate;  
or
- (ii) employment as a manager or under-manager of a mine or as a surveyor for a mine, or employment in any office at a mine, the appointment to which is required by virtue of this Act to be made by the manager of the mine,
- 25 makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or produces, furnishes, sends or otherwise makes use of a document which is false in a material particular;
- (k) without reasonable excuse, removes, injures or defaces a notice  
30 which is for the time being posted at a mine in pursuance of any provisions of this Act, the regulations, the rules or a scheme;
- (l) contravenes or fails to comply with any provision of this Act, the regulations, the rules or a scheme;
- (m) fails to exercise any function conferred or imposed on him by or  
35 under a provision of this Act, the regulations, the rules or a scheme;

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(n) fails to comply with a direction given to him by the Minister or by an inspector in accordance with a provision of this Act, the regulations, the rules or a scheme; or

(o) fails to comply with a condition imposed on him in accordance with a provision of this Act, the regulations, the rules or a scheme,

shall be guilty of an offence against this Act.

**Liability of owners, etc., where offence committed.**

**161. (1)** Subject to subsection (2), where, in relation to a mine, a person commits an offence against this Act, the owner, superintendent, assistant superintendent, manager, deputy manager, under-manager in charge and under-managers of the mine also shall each be guilty of an offence against this Act.

**(2)** A person shall not, in relation to a mine, be guilty of an offence under subsection (1) in respect of an offence against this Act committed by another person (in this subsection referred to as "the offender") where—

(a) the offender is the owner of the mine; or

(b) that person is an official listed in an order of seniority in Part A or Part B of Schedule 1 and the offender is senior, according to that order of seniority, to that person.

**(3)** Proceedings for an offence under subsection (1) shall be instituted only with the consent of the Minister given in writing.

**(4)** A person may be proceeded against and convicted under subsection (1) in respect of an offence committed by another person whether or not that other person has been proceeded against for, or been convicted of, that offence.



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**Liability of directors, etc., of corporations.**

**162. (1)** Where a corporation commits an offence against this Act, each director of the corporation, and each officer concerned with the management of the corporation, shall, if it is proved that—

- (a) the offence was committed with his consent or connivance; or
- (b) the commission of the offence was attributable to any neglect on his part,

be guilty of the same offence.

**(2)** A person may be proceeded against and convicted under sub-section (1) in respect of an offence committed by a corporation whether or not the corporation has been proceeded against for, or been convicted of, the offence.

**Aiding, abetting, etc.**

**163.** A person who aids, abets, counsels, induces or procures, or consents to or connives at, the commission of an offence against this Act by another person shall be guilty of an offence against this Act.

**Defences.**

**164. (1)** It shall be a defence to any proceedings for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the person proceeded against to prove that he took all reasonable means to prevent the commission of the other offence by publishing, and, to the best of his power, enforcing the observance of, the provisions of this Act, the regulations, the rules and any scheme and any directions, or conditions of exemptions or approvals, given thereunder.

**(2)** It shall be a defence to any proceedings against the owner of a mine for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the owner to prove that—

- (a) he was not in the habit of taking, and did not in respect of the matters in question take, any part in the management of the mine;

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- (b) he had made all the financial and other provisions necessary to enable the manager of the mine to carry out his duties; and
- (c) the other offence was committed without his knowledge, consent or connivance.

5           **(3)** It shall be a defence to any proceedings against a person for an offence against this Act for the person to prove that—

(a) it was not reasonably practicable for him to comply with—

(i) the provision of this Act, the regulations, the rules or the scheme;

10           (ii) the direction; or

(iii) the condition of an exemption or approval, the breach of which constituted the offence; or

15           (b) the commission of the offence was due to causes over which he had no control and against the happening of which it was impracticable for him to make provision.

**Proceedings by owners, etc.—advice of result.**

**165.** Where an owner, a superintendent or a manager of a mine institutes proceedings against a person employed at the mine for an offence against this Act, he shall, within 21 days after—

20           (a) completion of the proceedings; and

(b) where an appeal has been lodged, completion of the appeal proceedings,

give to the district inspector notice of the result of the proceedings or appeal proceedings, as the case may be.

**25 Penalties.**

**166. (1)** A person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed a penalty—

(a) except as provided in paragraph (b), not exceeding \$2,000; or

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**Liability of directors, etc., of corporations.**

**162. (1)** Where a corporation commits an offence against this Act, each director of the corporation, and each officer concerned with the management of the corporation, shall, if it is proved that—

- (a) the offence was committed with his consent or connivance; or
- (b) the commission of the offence was attributable to any neglect on his part,

be guilty of the same offence.

**(2)** A person may be proceeded against and convicted under sub-section (1) in respect of an offence committed by a corporation whether or not the corporation has been proceeded against for, or been convicted of, the offence.

**Aiding, abetting, etc.**

**163.** A person who aids, abets, counsels, induces or procures, or consents to or connives at, the commission of an offence against this Act by another person shall be guilty of an offence against this Act.

**Defences.**

**164. (1)** It shall be a defence to any proceedings for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the person proceeded against to prove that he took all reasonable means to prevent the commission of the other offence by publishing, and, to the best of his power, enforcing the observance of, the provisions of this Act, the regulations, the rules and any scheme and any directions, or conditions of exemptions or approvals, given thereunder.

**(2)** It shall be a defence to any proceedings against the owner of a mine for an offence under section 161 (1), being an offence arising from the commission of another offence against this Act, for the owner to prove that—

- (a) he was not in the habit of taking, and did not in respect of the matters in question take, any part in the management of the mine;

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- (b) he had made all the financial and other provisions necessary to enable the manager of the mine to carry out his duties; and
- (c) the other offence was committed without his knowledge, consent or connivance.

5           **(3)** It shall be a defence to any proceedings against a person for an offence against this Act for the person to prove that—

(a) it was not reasonably practicable for him to comply with—

(i) the provision of this Act, the regulations, the rules or the scheme;

10           (ii) the direction; or

(iii) the condition of an exemption or approval, the breach of which constituted the offence; or

(b) the commission of the offence was due to causes over which he had no control and against the happening of which it was impracticable for him to make provision.

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**Proceedings by owners, etc.—advice of result.**

**165.** Where an owner, a superintendent or a manager of a mine institutes proceedings against a person employed at the mine for an offence against this Act, he shall, within 21 days after—

20           (a) completion of the proceedings; and

(b) where an appeal has been lodged, completion of the appeal proceedings,

give to the district inspector notice of the result of the proceedings or appeal proceedings, as the case may be.

**25 Penalties.**

**166. (1)** A person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed and if no penalty is so imposed a penalty—

(a) except as provided in paragraph (b), not exceeding \$2,000; or

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(b) in the case where the person is a corporation, not exceeding \$5,000.

(2) Where, in relation to an offence against this Act committed in respect of a mine, the court by which a person is convicted of the offence is of the opinion that the offence is one which was likely to, or did—

- (a) endanger the safety of persons employed in the mine;
- (b) cause serious personal injury to any such persons; or
- (c) cause a dangerous accident,

and that the offence was committed wilfully by the personal act, personal default or personal negligence of the person convicted, the court may, instead of imposing a monetary penalty, sentence that person to a term of imprisonment not exceeding 12 months.

**PART VIII.****GENERAL.****15 Delegation of functions by the Minister or the Chief Inspector.**

**167. (1)** Subject to this section—

- (a) the Minister may, by instrument in writing, delegate to any person such of the functions conferred or imposed on him by or under this Act as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation; and
- (b) the Chief Inspector may, by instrument in writing, delegate to the Deputy Chief Inspector or an inspector appointed under section 7 (1) (c)–(h) such of the functions conferred or imposed on him by or under this Act (not being functions delegated to him under paragraph (a)) as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

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- (2) The Minister or the Chief Inspector shall not delegate under subsection (1) the exercise of his power of delegation.
- (3) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise of any of the functions 5 delegated, or as to time or circumstances, as are specified in the instrument of delegation.
- (4) A function the exercise of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- 10 (5) Notwithstanding any delegation made by the Minister or the Chief Inspector under this section, the Minister or the Chief Inspector, as the case may be, may continue to exercise all or any of the functions delegated.
- (6) Any act or thing done or suffered by a delegate while exer-  
15 cising a function delegated to him under this section has the same force and effect as if the act or thing had been done or suffered by the Minister or the Chief Inspector, as the case may be.

**Hours of working of mine employees.**

168. (1) For the purposes of this section—
- 20 (a) an “emergency” means any happening or occurrence at a mine which has, in the opinion of the manager of the mine, put the mine or the health or safety of persons employed at the mine in danger; and
- (b) a person shall be deemed to be on duty at a mine if he is present  
25 at the mine and is required by the manager of the mine to exercise some function at the mine.
- (2) No person employed at a mine shall, except in an emergency, remain on duty at the mine for a continuous period in excess of 18 hours.

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(3) No person employed at a mine who has been on duty at the mine for a period in excess of 18 hours shall, except in an emergency, recommence duty at the mine until a period of 10 hours has elapsed since he was last on duty at the mine.

- 5 (4) The manager of a mine shall make an entry, in a book to be kept at the mine for that purpose, of every occasion on which a person—
- (a) remains on duty at the mine in excess of the period specified in subsection (2); or
  - (b) commences duty at the mine before the period specified in subsection (3) has elapsed,
- 10 and shall specify in the book in relation to that entry the nature of the emergency.

**Service of notices.**

15 **169.** (1) A notice required or authorised to be given to, or served on, a person by or under this Act shall be in writing and shall be given to, or served on, that person—

- (a) personally or by post; or
- (b) if a manner of giving or serving the notice is prescribed, in the manner prescribed.

20 (2) A notice required or authorised to be given to, or served on, an owner of a mine by or under this Act shall be deemed to have been so given or served if it is given to, or served on, the superintendent or the manager of the mine.

**Appointments to be in writing.**

25 **170.** (1) Any appointment of a person for the purposes of this Act or the regulations shall be in writing unless a contrary intention appears in the provision authorising or requiring the appointment.

(2) An instrument of appointment of a mining official at a mine or a copy thereof shall be kept by the owner of the mine at the office of the 30 mine during the currency of the appointment and for 12 months thereafter.

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**Records, returns and information.**

171. (1) Every book or form which, in pursuance of this Act or the regulations, is required to be kept or provided by the owner of a mine for the purpose of the entry therein of any report, record or other item of information shall, if there is an approved form, be in or to the effect of that form.

(2) Every entry made in a book or form required to be kept or provided by the owner of a mine for the purpose referred to in subsection (1), or a copy of that entry, shall be preserved by the owner until the expiration of 1 year after the date on which the entry was made or, if some other period is prescribed, until the expiration of that period.

(3) A book or form required to be kept or provided by the owner of a mine for the purpose referred to in subsection (1) shall be kept by the owner at the office at the mine or at such other place as may be approved by the district inspector.

(4) Every entry required to be made in a book or form for the purpose referred to in subsection (1) which is required by or under this Act to be countersigned may be countersigned on the duplicate copy of the entry.

**20 Continuation of appointments, etc., made by owners or officials of mines.**

172. Any appointment, delegation, rule, scheme, direction or instruction made or given by a person who is the owner or an official of a mine shall continue in force after that person ceases to be the owner or official, as the case may be, and may be altered from time to time or revoked as if it had been made or given by his successor.

**Finance.**

173. (1) Any expenses incurred under or by virtue of this Act by the Minister shall be defrayed out of money provided by Parliament.

(2) Any sums received under or by virtue of this Act by the Minister shall be paid into the Consolidated Revenue Fund.



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**Regulations.**

174. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, but without limiting the generality of subsection (1), the regulations may include provision for or with respect to—

- (a) the safety, health, convenience and conduct of persons at mines;
- (b) the care and maintenance of animals used at mines;
- 10 (c) prohibiting the use of specified materials or classes or types of material underground in mines unless such materials, classes or types are approved;
- (d) the duties and discipline of persons employed in or about mines;
- 15 (e) the design, construction, installation, maintenance, use, testing, repair, adjustment, alteration and examination of machinery or apparatus used at mines (in so far as those matters affect the safety or health of persons at mines);
- (f) the design, use, construction and maintenance of—
  - 20 (i) mechanical vehicles and locomotives at mines;
  - (ii) mechanical equipment at mines;
  - (iii) buildings and structures at mines;
  - (iv) equipment used in connection with shafts and roadways in mines;
  - (v) belt conveyors at mines; and
  - 25 (vi) electrical equipment at mines,in so far as those things affect the safety or health of persons at mines;
- (g) prohibiting the installation at mines of machinery or apparatus not constructed so as to comply with the regulations;
- 30 (h) the construction, design, material and strength of foundations to which any machinery or apparatus at mines is or is to be anchored;

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- (i) the provision of security measures at mines to prevent access to shafts, drifts and surface buildings when unattended;
- (j) the provision of blast doors or other devices capable of assisting in the sealing off of mines;
- 5 (k) inspections for the presence of noxious or flammable gas, spontaneous combustion or heating or for the absence of oxygen, including provisions for or with respect to the installation in mines or the supply to persons employed in mines of devices, systems or equipment for the detection, monitoring or testing of  
10 flammable or noxious gases or for detecting or monitoring the absence of oxygen;
- (l) the support of the roof and sides of working places and roadways in mines and the withdrawal of that support;
- (m) the maintenance and inspection of shafts and roadways in mines;
- 15 (n) working practices employed at mines in so far as those practices affect the safety or health of persons at mines;
- (o) prohibiting the working of mines affected by dust or prescribing the conditions under which any such mines shall be worked;
- 20 (p) requiring the use in mines of prescribed apparatus in relation to dust;
- (q) requiring steps to be taken and working practices to be adopted to minimise dust in mines;
- (r) preventing the accumulation in mines of flammable dust;
- 25 (s) the prevention, detection and combating of fires at, and spontaneous heatings occurring in, mines including provisions for or with respect to—
  - (i) the establishment and maintenance at mines of such organisations of persons as may be necessary for the prevention, detection and combating of fires and spontaneous heatings and the training of the members of any such  
30 organisations; and
  - (ii) the provision and maintenance at mines of suitable and sufficient apparatus for the prevention, detection and combating of fires and spontaneous heatings;

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- (t) the design, installation, operation and maintenance of methane drainage systems in mines and the treatment, storage and disposal of methane;
- 5 (u) the requirements to be observed and the precautions to be taken in mining—
- (i) under the ocean, a river, a lake, an estuary, a reservoir or an aquifer; and
- 10 (ii) near any place or strata which is likely to contain a dangerous accumulation of gas or water or material that flows when wet;
- (v) the control of the supply, storage and use of blasting materials, blasting devices and flammable materials at mines;
- 15 (w) requiring the surveying, and the preparation of plans, of barriers and protective pillars in mines and prescribing the time in which any such surveys or plans shall be made or prepared;
- (x) the charging of fees for the testing of machinery, vehicles, equipment, apparatus, material or any other articles for approval for the purposes of this Act or the regulations;
- 20 (y) the waiver, remission or refund of fees charged under the regulations;
- (z) the approval of any equipment, apparatus, material or thing before it may be used in, installed in or taken into a mine or connected to, or used with, any other equipment, apparatus, material or thing used or installed in a mine;
- 25 (aa) the issue of certificates of examination in respect of any equipment, apparatus, material or thing proposed to be used in, installed in or taken into a mine;
- (bb) the preparation and the putting into effect of rules and schemes referred to in Divisions 7 and 8 of Part IV;
- 30 (cc) the generation, storage, transformation, transmission and use of electricity at mines;
- (dd) the use, construction, installation, examination, repair, maintenance, alteration, adjustment and testing of electrical apparatus and electric cables at mines;

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- (ee) the circumstances in which the supply of electricity into the underground parts of a mine or part of a mine or any apparatus in a mine shall be cut off and the type, nature and design of apparatus to be used to cut off the supply of electricity;
- 5 (ff) requiring the installation in mines of such electrical apparatus as may be prescribed and the type, nature and design of any such apparatus;
- (gg) the circumstances in which the supply of electricity shall not be connected to the underground parts of a mine or part of a mine  
10 and the type, nature and design of any apparatus to be used to prevent the supply of electricity being connected;
- (hh) requiring communication systems to be provided in mines;
- (ii) the supply and maintenance of first aid equipment, facilities and locations in mines;
- 15 (jj) the employment in mines of persons trained to administer first aid to persons injured;
- (kk) the conveyance of persons injured within a mine from the mine to their homes or hospital;
- (ll) the provision, location, care and maintenance of sanitary conveniences in mines;  
20
- (mm) the control of rats, mice, other vermin and insects in and about mines;
- (nn) the provision, design, location, care and maintenance of bath and change houses at mines;
- 25 (oo) the supply of drinking water at mines;
- (pp) the provision of facilities for the taking of meals both on the surface and underground at mines;
- (qq) the supply and maintenance of safety equipment for the use of persons employed at mines;
- 30 (rr) the transport of persons and materials in mines;
- (ss) requiring persons employed in mines who carry out functions which may affect the safety or health of other persons to hold such qualifications as may be prescribed;

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- (tt) the ventilation of mines;
- (uu) the environmental working conditions in mines;
- (vv) the control of the temperature and humidity in mines;
- 5 (ww) the use of safety lamps and appliances for detecting the presence of flammable gas in mines;
- (xx) lighting in or about mines;
- (yy) prohibiting the taking into mines of items which may affect the safety of persons therein;
- 10 (zz) searching persons, before entry into mines, for items referred to in paragraph (yy) and the confiscation and disposal of any such items found;
- (aaa) the fencing, enclosing or sealing of abandoned or discontinued mines or parts of mines;
- 15 (bbb) the making of rules, and the preparation of schemes, by managers of mines and the enforcing of the observance of those rules and schemes;
- (ccc) requiring the provision of notice boards at mines and prescribing—
  - (i) the number, design, construction, size and location of notice boards;
  - 20 (ii) matters that shall be displayed on notice boards; and
  - (iii) the size and type of print to be used in matter to be displayed on notice boards;
- (ddd) prescribing the type, size, contents and location of signs and notices to be displayed at mines;
- 25 (eee) the supply free of charge by the owners of mines to mine employees of abstracts of this Act and the regulations and any other approved books or information;
- 30 (fff) the preparation, maintenance, keeping and preservation of plans, sections and drawings of mines (including abandoned mines) and of workings in or about mines and of related documents, including provisions for or with respect to the preparation of those plans, sections and drawings by the Department and the recovery of the cost thereof;

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*Coal Mines Regulation.*

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- (ggg) surveys of mines (including abandoned mines);
- 5 (hhh) the furnishing or production of copies of plans, sections and drawings of mines (including abandoned mines) and the furnishing of information relevant to the preparation of those plans, sections or drawings to the Department, to inspectors and to other persons;
- (iii) the supply of, or the furnishing of information from, copies of plans, sections or drawings filed with the Department to persons;
- 10 (jjj) prescribing, in respect of emplacement areas, engineering, environmental and safety standards, practices to be adopted in constructing and using emplacement areas and steps to be taken to keep emplacement areas secure;
- (kkk) regulating the number of persons who may be employed underground in a mine or part of a mine in prescribed circumstances;
- 15 (lll) regulating the employment of persons under the age of 16 years in or about mines and the employment of female persons underground at mines;
- (mmm) the provision, retention, maintenance and inspection of records at mines; and
- 20 (nnn) the functions of inspectors, including provisions for or with respect to the production of written authorities by inspectors and the warnings to be administered to persons in the course of an inspection.

(3) A power under this Act to make regulations may be exercised—

(a) in relation to—

- 25 (i) all cases to which the power extends;
- (ii) all cases to which the power extends subject to special exceptions; or
- (iii) in relation to any specified cases or classes of cases to which the power extends; and

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(b) so as to make, as respects the cases in relation to which it is exercised—

5 (i) the same provision for all cases, a different provision for different cases or classes of cases, or different provisions as respects the same cases or classes of cases for different purposes of this Act; or

(ii) any provision referred to in subparagraph (i) either unconditionally or subject to any specified conditions.

10 (4) Without limiting the generality of subsection (3), the regulations may provide for the classification of underground mines by reference to the quantity of flammable gas found in the mines.

(5) The Chief Inspector may, by instrument in writing served on the owner of a mine, order that any specified provision of the regulations, the rules or a scheme—

15 (a) shall not apply to or in respect of any person or class of person, or any act, matter or thing or class of act, matter or thing, specified in the order; or

(b) shall not so apply in such circumstances or subject to such conditions as may be so specified.

20 (6) Subsection (5), to such extent as is prescribed, applies to an inspector in the same way as it applies to the Chief Inspector.

(7) An order made under subsection (5) shall take effect according to its tenor on and from the time it is made or, where a later time is specified in the order, from the day so specified.

25 (8) The regulations may, in relation to any matter in respect of which they may be made—

(a) authorise or require—

(i) inspectors;

(ii) owners or officials of mines; or

30 (iii) persons employed in or about mines,

to—

(iv) do, or cause to be done, such acts as are specified in the regulations; or

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- (v) ensure that such acts as are specified in the regulations are done; or
- (b) require any such inspector, owner, official or person to—
- 5 (i) refrain from doing such acts as are specified in the regulations; or
- (ii) ensure that such acts as are specified in the regulations are not done.
- (9) A regulation may—
- 10 (a) apply differently according to such factors as are specified in the regulation;
- (b) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person;
- (c) adopt wholly, partly or by reference—
- 15 (i) any of the standards, rules, codes or specifications specified in the regulation that have been recommended or adopted by the British Standards Institution or the Standards Association of Australia (whether published before or after the day appointed and notified under section 2 (2)); or
- 20 (ii) any standards, rules, codes or specifications approved by the Minister and published in the Gazette (whether published before or after that day),
- 25 relating to the matter with which the regulation deals together with any additions or amendments thereto (whether made or published before or after that day) that are so specified;
- (d) exempt persons, or persons of a prescribed class, or any act, matter or thing, or any prescribed class of act, matter or thing, either absolutely or subject to conditions, from any provision of the regulation;
- 30 (e) require an application under this Act to be verified by a statutory declaration; and



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- (f) impose a penalty not exceeding \$500 for any contravention of a regulation and in addition, where the contravention continues, a penalty not exceeding \$50 for every day the contravention continues.

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**SCHEDULE 1.**

(Secs. 5 (1) (19), 33 (3).)

**MINING OFFICIALS AND ORDER OF SENIORITY OF MINING OFFICIALS.**

**PART A.**

**Mining officials and order of seniority—underground mines.**

- 10 Superintendent.  
Assistant Superintendent.  
Manager.  
Deputy Manager.  
Under-manager in charge.
- 15 Under-manager.  
Deputy.

**PART B.**

**Mining officials and order of seniority—open cut mines.**

- 20 Superintendent.  
Assistant Superintendent.  
Manager.  
Deputy Manager.  
Examiner of an open cut mine.
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## SCHEDULE 2.

(Sec. 18.)

## PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD.

**Interpretation.**

- 5 1. In this Schedule—
- “appointed member” means a member referred to in section 13 (2) (c)–(j);
- “chairman” means the chairman of the Board;
- “deputy chairman” means the deputy chairman of the Board;
- “meeting” means a meeting of the Board;
- 10 “member” means a member of the Board.

**Chairman.**

2. (1) The chairman shall preside at all meetings at which he is present.
- (2) The members shall elect a member as a deputy chairman of the Board.
- (3) If the chairman is not present at any meeting at the time appointed for  
15 holding the meeting, the deputy chairman shall act as chairman at that meeting.
- (4) If the chairman and deputy chairman are not present at any meeting at the time appointed for holding the meeting, the members present at the meeting shall appoint one of their number to act as chairman at that meeting.

**Term of office of members.**

- 20 3. (1) The Minister shall specify in the instrument of appointment of an appointed member a term of office, not exceeding 3 years, in relation to the member.
- (2) An appointed member shall cease to hold office—
- (a) subject to subclause (3), on the expiration of his term of office;
- (b) on attaining the age of 65 years;
- 25 (c) on his resignation; or
- (d) on termination of his appointment under subclause (5) or under section 30 of the Interpretation Act, 1897,
- whichever is the earliest.

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD—*continued.*

(3) An appointed member shall, if otherwise qualified, be eligible for re-appointment as a member.

5 (4) An appointed member may, by notice in writing given to the Minister, resign his office.

(5) In addition to his powers under section 30 of the Interpretation Act, 1897, the Minister may remove or suspend from office any or all of the members, whether or not he appoints instead a person as a member, or persons as members.

**10 Voting.**

4. (1) Questions arising at a meeting shall be determined by a majority of votes of the members present and voting.

(2) The chairman or member presiding at a meeting shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

**15 Remuneration of members.**

5. Each member is entitled to receive such remuneration (including travelling and subsistence allowances) for attending meetings and transacting business of the Board as the Minister may from time to time determine in respect of him.

**Procedure generally.**

20 6. The frequency of meetings, the procedures for the conduct of business at meetings and the number of members required to constitute a quorum at a meeting shall, subject to this Act, the regulations and any directions given by the Minister, be as determined by the Board.

**Regulations.**

25 7. The regulations may make provisions, not inconsistent with this Act, with respect to—

(a) the frequency of meetings;

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SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEMBERS AND PROCEDURE OF BOARD—*continued.*

- (b) the procedures for the conduct of business at meetings;
- (c) the number of members required to constitute a quorum at a meeting; and
- 5 (d) the circumstances in which a member shall be deemed to have vacated his office.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982