

CONCURRENCE COPY

MISCELLANEOUS ACTS (COAL MINES REGULATION) REPEAL AND AMENDMENT BILL, 1982

EXPLANATORY NOTE

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

This Bill is cognate with the Coal Mines Regulation Bill, 1982.

The objects of this Bill are to effect repeals of certain Acts and amendments to certain other Acts consequent on the enactment of the Coal Mines Regulation Bill, 1982, and the Coal Mining (Amendment) Bill, 1982.

Schedule 1 contains the repeals, Schedule 2 contains the amendments consequent on the enactment of the Coal Mines Regulation Bill, 1982, and Schedule 3 contains the amendments consequent on the enactment of the Coal Mining (Amendment) Bill, 1982.

Schedule 4 contains savings, transitional and other provisions, consequent on and in connection with the enactment of the Coal Mines Regulation Bill, 1982, and the Coal Mining (Amendment) Bill, 1982.

АННОУИТИСЕ СОБА

**MISCELLANEOUS ACTS (COAL MINES REGULATION)
REPEAL AND AMENDMENT BILL, 1982**

It is 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:—

3 Short title.

1. This Act may be cited as the Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Act, 1982.

4 Commencement.

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

No. , 1982.

(2) Sections 4, 5 and 7 (in its application to clauses 1-10 of Schedule 4) and Schedules 1, 2 and 3 (classes 11 and 12 excepted) shall commence on the day appointed under section 2 (2) of the Coal Mines Regulation Act, 1982.

A BILL FOR

An Act to repeal certain Acts and amend certain other Acts, consequent on the enactment of the Coal Mines Regulation Act, 1982, and the Coal Mining (Amendment) Act, 1982, and to enact savings, transitional and other provisions consequent on and in connection with the enactment of those Acts.

[MR HILLS—11 March, 1982.]

5 Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—REPEALS.

SCHEDULE 2.—AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL MINES REGULATION ACT, 1982.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

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

5 Short title.

1. This Act may be cited as the "Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Act, 1982".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall 10 commence on the date of assent to this Act.

(2) Sections 4, 5 and 7 (in its application to clauses 1–10 of Schedule 4) and Schedules 1, 2 and 4 (clauses 11 and 12 excepted) shall commence on the day appointed and notified under section 2 (2) of the Coal Mines Regulation Act, 1982.

15 (3) Section 6 and Schedule 3 shall commence on the day appointed and notified under section 2 (2) of the Coal Mining (Amendment) Act, 1982.

Schedules.

3. This Act contains the following Schedules:—

20 SCHEDULE 1.—REPEALS.

SCHEDULE 2.—AMENDMENTS CONSEQUENT ON THE ENACTMENT OF
THE COAL MINES REGULATION ACT, 1982.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

**SCHEDULE 3.—AMENDMENTS CONSEQUENT ON THE ENACTMENT OF
THE COAL MINING (AMENDMENT) ACT, 1982.**

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Repeals.

- 5 **4.** Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

Amendments consequent on the enactment of the Coal Mines Regulation Act, 1982.

5. Each Act specified in Schedule 2 is amended in the manner set forth
10 in that Schedule.

Amendments consequent on the enactment of the Coal Mining (Amendment) Act, 1982.

6. Each Act specified in Schedule 3 is amended in the manner set forth in that Schedule.

15 Savings, transitional and other provisions.

7. Schedule 4 has effect.
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Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 1.

(Sec. 4.)

REPEALS.

	Column 1.	Column 2.	
5	Year and number of Act.	Short title of Act.	Extent of repeal.
	1912, No. 37 ..	Coal Mines Regulation Act, 1912	The whole Act.
	1913, No. 11 ..	Coal Mines Regulation (Amending) Act, 1913.	The whole Act.
10	1925, No. 2 ..	Coal Mines Regulation (Amendment) Act, 1925.	The whole Act.
	1926, No. 19 ..	Coal Mines Regulation (Amendment) Act, 1926.	The whole Act.
15	1931, No. 52 ..	Coal Mines Regulation (Amendment) Act, 1931.	The whole Act.
	1937, No. 35 ..	Statute Law Revision Act, 1937	So much of the Second Schedule as amends Act No. 37, 1912, Act No. 11, 1913, and Act No. 19, 1926.
20	1941, No. 16 ..	Coal Mines Regulation (Amendment) Act, 1941.	The whole Act.
	1941, No. 33 ..	Coal Mines Regulation (Further Amendment) Act, 1941.	The whole Act.
25	1947, No. 12 ..	Coal Mines Regulation (Amendment) Act, 1947.	The whole Act.
	1953, No. 27 ..	Coal Mines Regulation (Amendment) Act, 1953.	The whole Act.
	1960, No. 23 ..	Coal Mines Regulation (Amendment) Act, 1960.	The whole Act.
30	1962, No. 35 ..	Mines Rescue (Amendment) Act, 1962 ..	Section 2 (2).
	1964, No. 19 ..	Coal Mines Regulation (Amendment) Act, 1964.	The whole Act.
	1972, No. 16 ..	Coal Mines Regulation (Amendment) Act, 1972.	The whole Act.
35	1973, No. 81 ..	Coal Mining Act, 1973	So much of the Third Schedule as amends Act No. 27, 1953, and Act No. 19, 1964, and so much of the Fourth Schedule as amends Act No. 37, 1912.
40	1974, No. 51 ..	Metric Conversion Act, 1974	Section 7 and so much of the Schedule as amends Act No. 37, 1912.
	1975, No. 19 ..	Coal Mining (Amendment) Act, 1975 ..	Section 14.
45	1975, No. 72 ..	Metric Conversion Act, 1975	Section 6 (a) (b).
	1976, No. 63 ..	Statute Law Revision Act, 1976	So much of Schedule 1 as amends Act No. 52, 1931.
	1977, No. 69 ..	Coal Mines Regulation (Amendment) Act, 1977.	The whole Act.
50	1980, No. 29 ..	Coal Mines Regulation (Coroners) Amendment Act, 1980.	The whole Act.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL MINES
REGULATION ACT, 1982.

5 Criminal Appeal Act, 1912, No. 16—

(1) Section 2 (1), definition of “Sentence”—

Omit “or section 52 of the Land and Environment Court Act, 1979”,
insert instead “section 52 of the Land and Environment Court Act,
1979, or section 153 of the Coal Mines Regulation Act, 1982”.

10 (2) Section 5AC—

After section 5AB, insert:—

**Appeal in criminal cases dealt with by Court of Coal Mines Regu-
lation in its summary jurisdiction.**

5AC. Section 5AA applies to and in respect of a person—

15 (a) convicted of an offence; or

(b) against whom an order to pay costs is made,

by a Court of Coal Mines Regulation in its summary jurisdiction in
the same way as it applies to a person referred to in section 5AA (1),
and, for the purposes of this section, a reference in section 5AA to
20 the Supreme Court shall be read and construed as a reference to a
Court of Coal Mines Regulation.

(3) (a) Section 5A (1A)—

Omit “Supreme Court or Land and Environment Court in its
summary jurisdiction”, insert instead “Supreme Court in its
summary jurisdiction, the Land and Environment Court in its
summary jurisdiction or a Court of Coal Mines Regulation in its
summary jurisdiction”.

(b) Section 5A (1A)—

After “section 5AB”, insert “or 5AC, as the case may require”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

(c) Section 5A (3)—

5 Omit “Supreme Court or Land and Environment Court in its summary jurisdiction”, insert instead “Supreme Court in its summary jurisdiction, the Land and Environment Court in its summary jurisdiction or a Court of Coal Mines Regulation in its summary jurisdiction”.

10 (4) Section 5C—

15 Before “the Attorney-General”, insert “or a Court of Coal Mines Regulation in its summary jurisdiction, in any proceedings to which the Crown was a party, has quashed any application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, as applied by section 152 (3) of the Coal Mines Regulation Act, 1982, or any charge specified in such an application,”.

(5) Section 10 (4)—

After “section 5AB”, insert “or 5AC”.

State Coal Mines Act, 1912, No. 70—

20 Sections 12A (6) (a), 20—

Omit “Coal Mines Regulation Act, 1912” wherever occurring, insert instead “Coal Mines Regulation Act, 1982”.

Mines Rescue Act, 1925, No. 3—

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

25 Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines Regulation Act, 1982”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

- (b) Section 2, definition of “Inspector”—
5 Omit the definition, insert instead:—
“Inspector” has the meaning ascribed thereto in the Coal
Mines Regulation Act, 1982.
- (c) Section 2, definition of “Manager”—
10 Omit “section 4 of the Coal Mines Regulation Act, 1912”, insert
instead “section 36 of the Coal Mines Regulation Act, 1982”.
- (d) Section 2, definition of “Mine”—
Omit “Coal Mines Regulation Act, 1912, and includes an open
cut working within the meaning of that Act”, insert instead
“Coal Mines Regulation Act, 1982”.
- 15 (2) Section 12 (2)—
Omit “first-class certificate of competency under the Coal Mines
Regulation Act, 1912”, insert instead “certificate of competency to
be a manager of a mine under the Coal Mines Regulation Act, 1982”.
- (3) Section 20—
20 Omit “the plan referred to in section 35 of the Coal Mines Regulation
Act, 1912”, insert instead “any plan required to be kept under the
Coal Mines Regulation Act, 1982”.
- Workers’ Compensation Act, 1926, No. 15—
Section 6 (1), definition of “injury”—
25 Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines
Regulation Act, 1982”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

Surveyors Act, 1929, No. 3—

5 Section 25—

Omit “Coal Mines Regulation Act, 1912, or of any Act amending such Acts”, insert instead “Coal Mines Regulation Act, 1982”.

Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, No. 45—

(1) Section 1 (5)—

10 Omit “Coal Mines Regulation Act, 1912, as amended by subsequent Acts”, insert instead “Coal Mines Regulation Act, 1982”.

(2) (a) Section 2 (1), definition of “Mine worker”, proviso (ii)—

Omit the proviso, insert instead:—

15 (ii) an official who is an electrical engineer or a mechanical engineer for a mine for the purposes of the Coal Mines Regulation Act, 1982, or the regulations under that Act;

(b) Section 2 (1), definition of “Owner”—

20 Omit “Coal Mines Regulation Act, 1912, as amended by subsequent Acts”, insert instead “Coal Mines Regulation Act, 1982”.

(3) Section 2B (2) (c) (ii)—

Omit “Coal Mines Regulation Act, 1912–1947”, insert instead “Coal Mines Regulation Act, 1982”.

(4) Section 2F (2) (b) (i)—

25 Omit “Coal Mines Regulation Act, 1912, as amended by subsequent Acts, connected with the provisions of that Act, as so amended,”, insert instead “Coal Mines Regulation Act, 1982, connected with the provisions of that Act”.

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.*SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

Coal Industry Act, 1946, No. 44—

5 Section 12 (6)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines
Regulation Act, 1982”.

Mine Subsidence Compensation Act, 1961, No. 22—

(1) Section 6 (5)—

10 Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines
Regulation Act, 1982”.

(2) (a) Section 11 (1B) (a) (iii)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal
Mines Regulation Act, 1982”.

15 (b) Section 11 (6)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal
Mines Regulation Act, 1982”.

Coal Mining Act, 1973, No. 81—

Section 21A (7)—

20 Omit the subsection, insert instead:—

(7) In this section, “owner” has the meaning ascribed thereto in
the Coal Mines Regulation Act, 1982.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

Defamation Act, 1974, No. 18—

5 Section 17G—

After section 17F, insert:—

Reports under the Coal Mines Regulation Act, 1982.

10 17G. There is a defence of absolute privilege for the publication of a report referred to in section 94 of the Coal Mines Regulation Act, 1982, of an inspector appointed under that Act to or by the Minister administering that Act.

Dangerous Goods Act, 1975, No. 68—

Sections 5 (3), 41 (2)—

15 Omit “Coal Mines Regulation Act, 1912” wherever occurring, insert instead “Coal Mines Regulation Act, 1982”.

Coroners Act, 1980, No. 27—

(1) Schedule 1, clause 1, definition of “inspector”—

Omit “collieries under the Coal Mines Regulation Act, 1912”, insert instead “coal mines under the Coal Mines Regulation Act, 1982”.

20 (2) Schedule 1, clause 1, definition of “mine”—

Omit “of coal or shale to which the Coal Mines Regulation Act, 1912”, insert instead “to which the Coal Mines Regulation Act, 1982”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

(3) Schedule 1, clause 2 (a)—

- 5 Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines
Regulation Act, 1982”.

SCHEDULE 3.

(Sec. 6.)

10 AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE
COAL MINING (AMENDMENT) ACT, 1982.

Coal Mines Regulation Act, 1912, No. 37—

(1) Section 3 (1), definition of “Colliery holding”—

Before the definition of “Court”, insert:—

- 15 “Colliery holding” has the meaning ascribed thereto in the Coal
Mining Act, 1973.

(2) Section 35A—

Omit the section.

Mines Rescue Act, 1925, No. 3—

Section 6 (1), definition of “colliery holding”—

- 20 Omit the definition, insert instead:—

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

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.*SCHEDULE 3—*continued*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINING (AMENDMENT) ACT, 1982—*continued.*

Mine Subsidence Compensation Act, 1961, No. 22—

5 Section 4, definition of “Colliery holding”—

Omit the definition, insert instead:—

“Colliery holding” has the meaning ascribed thereto in the Coal Mining
Act, 1973.

Mining Act, 1973, No. 42—

10 Section 6 (1), definition of “colliery holding”—

Omit the definition, insert instead:—

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

SCHEDULE 4.

15

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

(Sec. 7.)

Interpretation.

1. (1) In this Schedule—

20

“appointed day” means the day appointed and notified under section 2 (2) of the
Principal Act;

“Principal Act” means the Coal Mines Regulation Act, 1982;

“the 1912 Act” means the Coal Mines Regulation Act, 1912.

25

(2) Except in so far as the context or subject-matter otherwise indicates or
requires, expressions used in this Schedule have the same meanings as in the Principal
Act.(3) In this Schedule, a reference to a subclause is, unless a contrary intention
appears, a reference to a subclause of the clause in which the reference occurs.

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.*SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***References to Coal Mines Regulation Act, 1912.**

2. A reference in any other Act, or in any statutory instrument or in any other document, whether of the same or of a different kind, to the Coal Mines Regulation Act, 1912, shall be read and construed as a reference to the Principal Act.

Appointments under the 1912 Act to be deemed to have been made under the Principal Act.

3. A person—

- 10 (a) appointed to an office prescribed by the 1912 Act, being an office specified in Column 1 of the Table to this clause; and
(b) holding that office immediately before the appointed day,

shall be deemed to have been appointed under the Public Service Act, 1979, for the purposes of the Principal Act to the office specified opposite that firstmentioned office in Column 2 of that Table.

TABLE.

	Column 1.	Column 2.
20	Chief Inspector of Coal Mines. Deputy Chief Inspector of Coal Mines. Senior Inspector of Collieries. Inspector of Collieries. Senior Electrical Inspector. Electrical Inspector. Inspector of Mechanical Engineering.	Chief Inspector of Coal Mines. Deputy Chief Inspector of Coal Mines. Senior Inspector of Coal Mines. Inspector of Coal Mines. Senior Inspector of Electrical Engineering. Inspector of Electrical Engineering. Inspector of Mechanical Engineering.

25 Appointment under the Public Service Act to be deemed to have been made for the purposes of the Principal Act.

4. A person—

- (a) appointed to the office of Senior Inspector of Mechanical Engineering under the Public Service Act, 1979; and
30 (b) holding that office immediately before the appointed day,

shall be deemed to have been appointed under the Public Service Act, 1979, for the purposes of the Principal Act to the office of Senior Inspector of Mechanical Engineering.

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.*SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Qualifications held under the 1912 Act to be deemed to be held under the Principal Act.**

5 A person who is, immediately before the appointed day, shown in the register maintained under section 14 of the 1912 Act as holding a qualification specified in Column 1 of the Table to this clause shall be deemed to hold, under the Principal Act, the qualification specified opposite that firstmentioned qualification in Column 2 of that Table.

TABLE.

10	Column 1.	Column 2.
	First-class certificate of competency.	Certificate of competency to be a manager of a mine.
	Second-class certificate of competency.	Certificate of competency to be an under-manager of a mine.
15	Third-class certificate of competency.	Certificate of competency to be a deputy.
	Certificate of fitness to be a mine electrical engineer.	Certificate of competency to be a mine electrical engineer.
	Certificate of competency as a mine mechanical engineer.	Certificate of competency to be a mine mechanical engineer.
20	Certificate of service as a mine mechanical engineer.	Certificate of competency to be a mine mechanical engineer.
	Certificate of fitness to be a mine surveyor.	Certificate of competency to be a mine surveyor.

Holder of certificate of service as an assistant under-manager may be appointed as an under-manager.

25 6. A person who is, as at the appointed day, the holder of a certificate of service as an assistant under-manager granted pursuant to section 5AA (6) of the 1912 Act may, notwithstanding the provisions of the Principal Act, be appointed as an under-manager of a mine.

Continuation of permits to manage open cut workings.

30 7. (1) A permit granted pursuant to clause 4 (a) of the Eighth Schedule to the 1912 Act to manage an open cut working (which open cut working shall, for the purposes of this clause, be deemed to be an open cut mine) shall continue in force on the same terms and conditions notwithstanding the repeal of the 1912 Act.

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.*SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (2) The Chief Inspector may, before 1st January, 1985, grant a permit to be manager of an open cut mine to a person who satisfies the Chief Inspector that he—
- 5 (a) is not less than 23 years of age; and
 (b) has had the necessary experience to be the manager of an open cut mine.
- (3) The Chief Inspector may from time to time renew a permit referred to in subclause (1) or (2) on such terms and conditions as he thinks fit.
- 10 (4) The Chief Inspector may revoke any permit referred to in subclause (1) or (2) or renewed under subclause (3) or vary any term or condition thereof.
- (5) Notwithstanding the provisions of the Principal Act, the holder of a permit referred to in this clause shall be qualified to be appointed as the manager of the open cut mine to which the permit relates.

Issue of certificates of competency to holders of permits to manage open cut workings.

- 15 8. (1) Any person who has held a permit granted pursuant to clause 4 (a) of the Eighth Schedule to the 1912 Act or under clause 7 (2) for a period of 2 years may apply to the Chief Inspector for a recommendation to the Minister that he be granted a certificate of competency to be the manager of an open cut mine.
- 20 (2) The Chief Inspector on receipt of an application made under subclause (1) may make the recommendation applied for subject to such conditions as he thinks fit or refuse to make the recommendation.
- (3) The Chief Inspector shall, before making a recommendation to the Minister under subclause (2), advise the applicant by notice in writing of any conditions contained in the recommendation.
- 25 (4) The Chief Inspector shall, if he refuses to make a recommendation under subclause (2), advise the applicant by notice in writing of that fact and the reasons therefor.
- (5) A person who has made an application under subclause (1) may, within 28 days of service of a notice under subclause (3) or (4), appeal to a court against—
- 30 (a) any refusal by the Chief Inspector to make a recommendation; or
 (b) any condition contained in a recommendation.

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.*SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(6) A court may in respect of an appeal made under subclause (5)—

- 5 (a) order the Chief Inspector to make a recommendation to the Minister subject to such conditions as it may specify; or
- (b) order that a condition contained in a recommendation be deleted, varied or added to.

(7) The Minister shall, on receipt of a recommendation by the Chief Inspector, grant a certificate of competency to be a manager of an open cut mine subject to 10 such conditions as may be specified in the recommendation.

(8) A certificate of competency granted under this clause shall be deemed to be a certificate of competency to be a manager of an open cut mine granted under the Principal Act.

Issue of certificates of competency to holders of permits to be open cut examiners.

- 15 9. A person who, immediately before the appointed day, holds a permit to be an open cut examiner issued pursuant to clause 7 (a) of the Eighth Schedule to the 1912 Act shall, on application to the Board, be issued with a certificate of competency to be an examiner of an open cut mine.

Approvals and consents.

- 20 10. (1) For the purposes of this clause—

“apparatus” means all electrical appliances, machines and fittings in which conductors are used or of which they form a part and includes electric motors;

“circuit” means an arrangement of conductors for the purpose of carrying electrical current;

- 25 “conductor” means a wire, cable or other form of metal suitable for carrying current, but does not include wires, cables or other metallic parts directly employed in converting electrical energy into another form of energy.

- 30 (2) Any device, material, item, substance, machine, apparatus, conductor, circuit or electrical equipment which has been approved by the Chief Inspector pursuant to a provision of the 1912 Act shall be deemed to be approved by the Chief Inspector for the purposes of the Principal Act subject to the same terms and conditions.

*Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.*SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(3) An approval granted by an inspector pursuant to General Rule 3 set out in section 54 of the 1912 Act shall continue in force subject to the same requirements **5** notwithstanding that the 1912 Act has been repealed.

(4) Any consent given by the Minister pursuant to section 53BA (1) of the 1912 Act shall be deemed to be an approval given for the purposes of section 138 (1) of the Principal Act subject to the same conditions.

(5) Any approval or order given by the Minister pursuant to section 53BA **10** (2) (e) of the 1912 Act shall be deemed to be an approval or direction for the purposes of section 138 (2) (c) or (d) of the Principal Act.

(6) Any approval given by the Minister pursuant to section 53BA (2) (f) of the 1912 Act shall be deemed to be an approval for the purposes of section 138 (2) (e) of the Principal Act on the same conditions.

15 (7) Any approval or consent given by the Minister pursuant to any condition or term contained in a coal lease granted under the Coal Mining Act, 1973, to the effect that the registered holder of the coal lease may use a method of working other than the bord and pillar system shall be deemed to be a consent given for the purposes of section 138 (1) of the Principal Act subject to the same conditions.

20 (8) Any approval or consent given by the Minister pursuant to any condition or term contained in a coal lease granted under the Coal Mining Act, 1973, to the effect that the registered holder of the coal lease can remove pillars (where he is using the bord and pillar system of workings) shall be deemed to be an approval given for the purposes of section 138 (2) (e) of the Principal Act subject to the same conditions.

25 (9) Any term or condition contained in a coal lease granted under the Coal Mining Act, 1973, to the extent that it authorises the giving of an approval or consent of a kind referred to in subclause (7) or (8) shall be deemed to be revoked with effect on and from the appointed day.

30 Certain instruments deemed to be instruments of a legislative or administrative character for the purposes of section 37 of the Interpretation Act, 1897.

11. For the purposes of section 37 of the Interpretation Act, 1897—

- (a) an instrument referred to in section 56 of the Principal Act; and
 - (b) rules and schemes referred to in Division 7 of Part IV of the Principal Act,
- shall be deemed to be instruments of a legislative or administrative character.

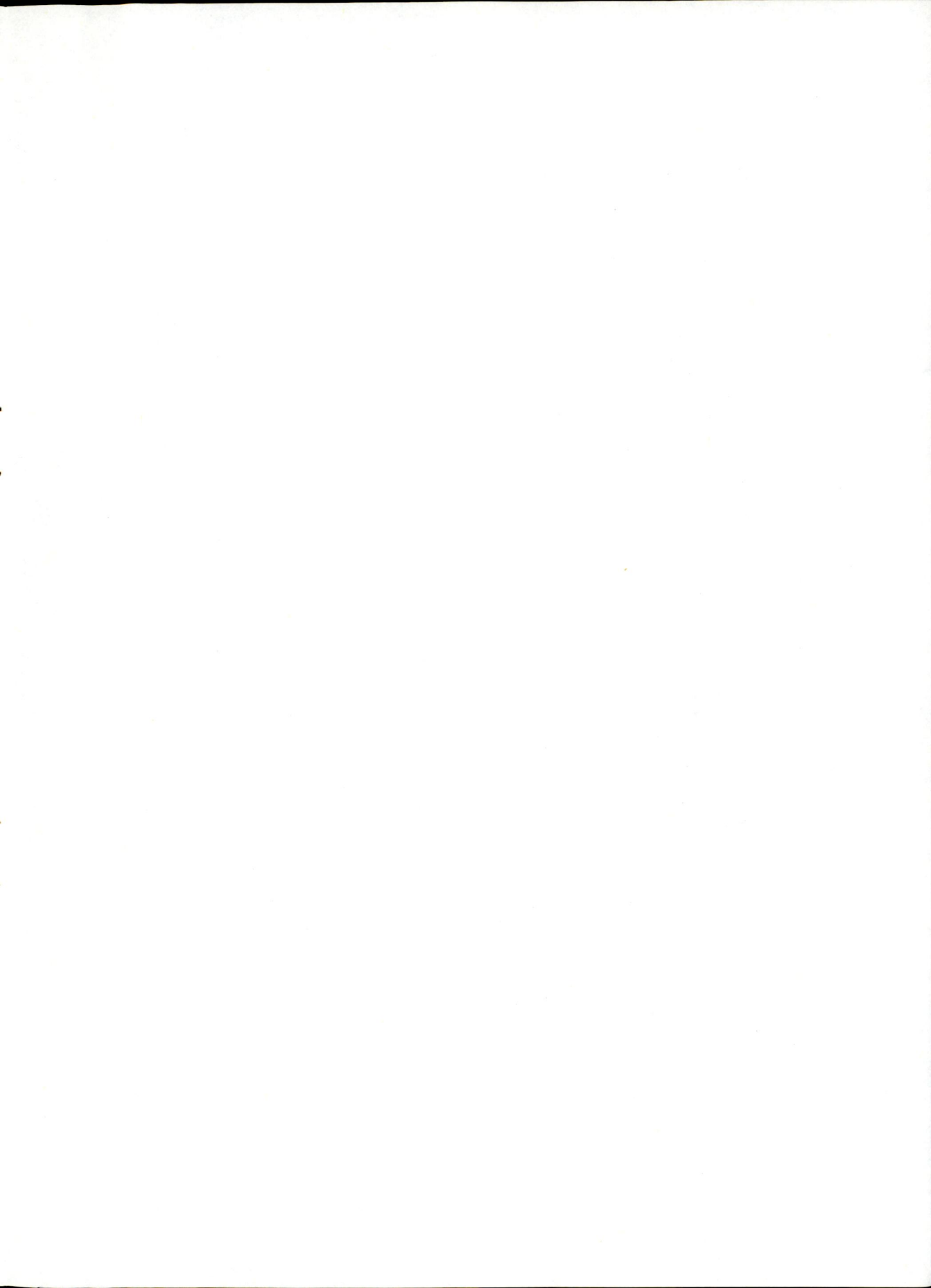
Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Regulations.**

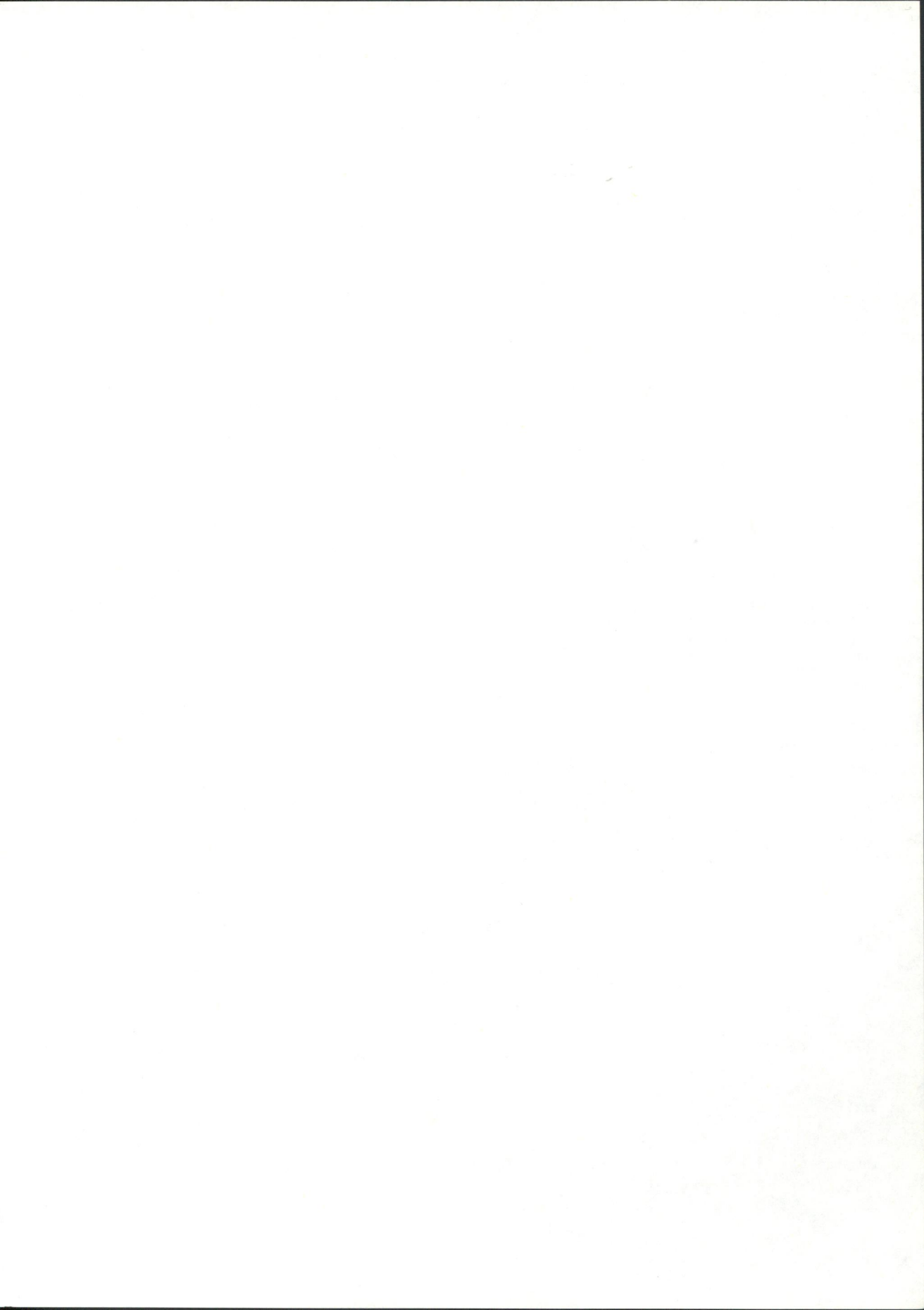
12. (1) The Governor may make regulations containing other provisions of a
5 savings or transitional nature consequent on the enactment of this Act, the Principal Act
or the Coal Mining (Amendment) Act, 1982.
- (2) A provision made under subclause (1) may take effect—
- 10 (a) where the provision is consequent on the enactment of this Act (section 6
and Schedule 3 excepted) or the Principal Act — as from the appointed day
or a later day; or
- (b) where the provision is consequent on the enactment of section 6 and Schedule
3 or the Coal Mining (Amendment) Act, 1982—as from the day appointed
and notified under section 2 (2) of that Act.
- 15 (3) To the extent to which a provision referred to in subclause (1) takes effect
from a date that is earlier than the date of its publication in the Gazette, the provision
does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an
authority of the State), the rights of that person existing before the date of
its publication therein; or
- 20 (b) to impose liabilities on any person (other than the State or an authority of
the State) in respect of anything done or omitted to be done before the date
of its publication therein.
- (4) A provision made under subclause (1) shall, if the regulations under this
clause so provide, have effect notwithstanding the foregoing clauses of this Schedule.

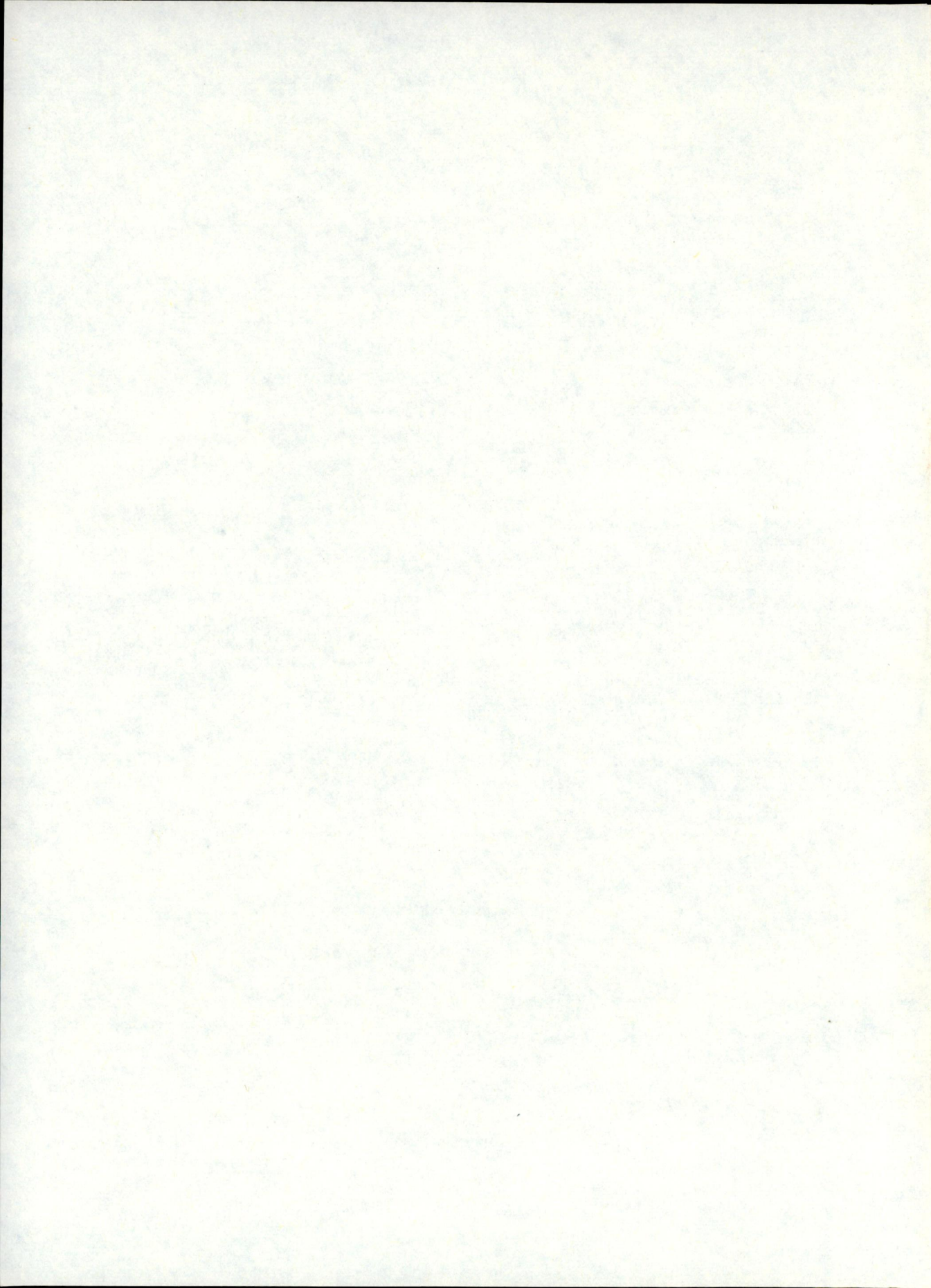
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**MISCELLANEOUS ACTS (COAL MINES REGULATION)
REPEAL AND AMENDMENT ACT, 1982, No. 69**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 69, 1982.

An Act to repeal certain Acts and amend certain other Acts, consequent on the enactment of the Coal Mines Regulation Act, 1982, and the Coal Mining (Amendment) Act, 1982, and to enact savings, transitional and other provisions consequent on and in connection with the enactment of those Acts. [Assented to, 20th May, 1982.]

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

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

Short title.

1. This Act may be cited as the "Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment Act, 1982".

Commencement.

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

(2) Sections 4, 5 and 7 (in its application to clauses 1–10 of Schedule 4) and Schedules 1, 2 and 4 (clauses 11 and 12 excepted) shall commence on the day appointed and notified under section 2 (2) of the Coal Mines Regulation Act, 1982.

(3) Section 6 and Schedule 3 shall commence on the day appointed and notified under section 2 (2) of the Coal Mining (Amendment) Act, 1982.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—REPEALS.

SCHEDULE 2.—AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL MINES REGULATION ACT, 1982.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

**SCHEDULE 3.—AMENDMENTS CONSEQUENT ON THE ENACTMENT OF
THE COAL MINING (AMENDMENT) ACT, 1982.**

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Repeals.

4. Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

Amendments consequent on the enactment of the Coal Mines Regulation Act, 1982.

5. Each Act specified in Schedule 2 is amended in the manner set forth in that Schedule.

Amendments consequent on the enactment of the Coal Mining (Amendment) Act, 1982.

6. Each Act specified in Schedule 3 is amended in the manner set forth in that Schedule.

Savings, transitional and other provisions.

7. Schedule 4 has effect.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 1.

(Sec. 4.)

REPEALS.

	Column 1.	Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1912, No. 37 ..	Coal Mines Regulation Act, 1912	The whole Act.
1913, No. 11 ..	Coal Mines Regulation (Amending) Act, 1913.	The whole Act.
1925, No. 2 ..	Coal Mines Regulation (Amendment) Act, 1925.	The whole Act.
1926, No. 19 ..	Coal Mines Regulation (Amendment) Act, 1926.	The whole Act.
1931, No. 52 ..	Coal Mines Regulation (Amendment) Act, 1931.	The whole Act.
1937, No. 35 ..	Statute Law Revision Act, 1937	So much of the Second Schedule as amends Act No. 37, 1912, Act No. 11, 1913, and Act No. 19, 1926.
1941, No. 16 ..	Coal Mines Regulation (Amendment) Act, 1941.	The whole Act.
1941, No. 33 ..	Coal Mines Regulation (Further Amendment) Act, 1941.	The whole Act.
1947, No. 12 ..	Coal Mines Regulation (Amendment) Act, 1947.	The whole Act.
1953, No. 27 ..	Coal Mines Regulation (Amendment) Act, 1953.	The whole Act.
1960, No. 23 ..	Coal Mines Regulation (Amendment) Act, 1960.	The whole Act.
1962, No. 35 ..	Mines Rescue (Amendment) Act, 1962 ..	Section 2 (2).
1964, No. 19 ..	Coal Mines Regulation (Amendment) Act, 1964.	The whole Act.
1972, No. 16 ..	Coal Mines Regulation (Amendment) Act, 1972.	The whole Act.
1973, No. 81 ..	Coal Mining Act, 1973	So much of the Third Schedule as amends Act No. 27, 1953, and Act No. 19, 1964, and so much of the Fourth Schedule as amends Act No. 37, 1912.
1974, No. 51 ..	Metric Conversion Act, 1974.. ..	Section 7 and so much of the Schedule as amends Act No. 37, 1912.
1975, No. 19 ..	Coal Mining (Amendment) Act, 1975 ..	Section 14.
1975, No. 72 ..	Metric Conversion Act, 1975	Section 6 (a) (b).
1976, No. 63 ..	Statute Law Revision Act, 1976	So much of Schedule 1 as amends Act No. 52, 1931.
1977, No. 69 ..	Coal Mines Regulation (Amendment) Act, 1977.	The whole Act.
1980, No. 29 ..	Coal Mines Regulation (Coroners) Amendment Act, 1980.	The whole Act.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL MINES
REGULATION ACT, 1982.

Criminal Appeal Act, 1912, No. 16—

(1) Section 2 (1), definition of “Sentence”—

Omit “or section 52 of the Land and Environment Court Act, 1979”, insert instead “section 52 of the Land and Environment Court Act, 1979, or section 153 of the Coal Mines Regulation Act, 1982”.

(2) Section 5AC—

After section 5AB, insert:—

Appeal in criminal cases dealt with by Court of Coal Mines Regulation in its summary jurisdiction.

5AC. Section 5AA applies to and in respect of a person—

- (a) convicted of an offence; or
- (b) against whom an order to pay costs is made,

by a Court of Coal Mines Regulation in its summary jurisdiction in the same way as it applies to a person referred to in section 5AA (1), and, for the purposes of this section, a reference in section 5AA to the Supreme Court shall be read and construed as a reference to a Court of Coal Mines Regulation.

(3) (a) Section 5A (1A)—

Omit “Supreme Court or Land and Environment Court in its summary jurisdiction”, insert instead “Supreme Court in its summary jurisdiction, the Land and Environment Court in its summary jurisdiction or a Court of Coal Mines Regulation in its summary jurisdiction”.

(b) Section 5A (1A)—

After “section 5AB”, insert “or 5AC, as the case may require”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

(c) Section 5A (3)—

Omit “Supreme Court or Land and Environment Court in its summary jurisdiction”, insert instead “Supreme Court in its summary jurisdiction, the Land and Environment Court in its summary jurisdiction or a Court of Coal Mines Regulation in its summary jurisdiction”.

(4) Section 5c—

Before “the Attorney-General”, insert “or a Court of Coal Mines Regulation in its summary jurisdiction, in any proceedings to which the Crown was a party, has quashed any application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, as applied by section 152 (3) of the Coal Mines Regulation Act, 1982, or any charge specified in such an application.”.

(5) Section 10 (4)—

After “section 5AB”, insert “or 5AC”.

State Coal Mines Act, 1912, No. 70—

Sections 12A (6) (a), 20—

Omit “Coal Mines Regulation Act, 1912” wherever occurring, insert instead “Coal Mines Regulation Act, 1982”.

Mines Rescue Act, 1925, No. 3—

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

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines Regulation Act, 1982”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

(b) Section 2, definition of “Inspector”—

Omit the definition, insert instead:—

“Inspector” has the meaning ascribed thereto in the Coal
Mines Regulation Act, 1982.

(c) Section 2, definition of “Manager”—

Omit “section 4 of the Coal Mines Regulation Act, 1912”, insert
instead “section 36 of the Coal Mines Regulation Act, 1982”.

(d) Section 2, definition of “Mine”—

Omit “Coal Mines Regulation Act, 1912, and includes an open
cut working within the meaning of that Act”, insert instead
“Coal Mines Regulation Act, 1982”.

(2) Section 12 (2)—

Omit “first-class certificate of competency under the Coal Mines
Regulation Act, 1912”, insert instead “certificate of competency to
be a manager of a mine under the Coal Mines Regulation Act, 1982”.

(3) Section 20—

Omit “the plan referred to in section 35 of the Coal Mines Regulation
Act, 1912”, insert instead “any plan required to be kept under the
Coal Mines Regulation Act, 1982”.

Workers’ Compensation Act, 1926, No. 15—

Section 6 (1), definition of “injury”—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines
Regulation Act, 1982”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

Surveyors Act, 1929, No. 3—

Section 25—

Omit “Coal Mines Regulation Act, 1912, or of any Act amending such Acts”, insert instead “Coal Mines Regulation Act, 1982”.

Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, No. 45—

(1) Section 1 (5)—

Omit “Coal Mines Regulation Act, 1912, as amended by subsequent Acts”, insert instead “Coal Mines Regulation Act, 1982”.

(2) (a) Section 2 (1), definition of “Mine worker”, proviso (ii)—

Omit the proviso, insert instead:—

(ii) an official who is an electrical engineer or a mechanical engineer for a mine for the purposes of the Coal Mines Regulation Act, 1982, or the regulations under that Act;

(b) Section 2 (1), definition of “Owner”—

Omit “Coal Mines Regulation Act, 1912, as amended by subsequent Acts”, insert instead “Coal Mines Regulation Act, 1982”.

(3) Section 2B (2) (c) (ii)—

Omit “Coal Mines Regulation Act, 1912–1947”, insert instead “Coal Mines Regulation Act, 1982”.

(4) Section 2F (2) (b) (i)—

Omit “Coal Mines Regulation Act, 1912, as amended by subsequent Acts, connected with the provisions of that Act, as so amended,”, insert instead “Coal Mines Regulation Act, 1982, connected with the provisions of that Act”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

Coal Industry Act, 1946, No. 44—

Section 12 (6)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines Regulation Act, 1982”.

Mine Subsidence Compensation Act, 1961, No. 22—

(1) Section 6 (5)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines Regulation Act, 1982”.

(2) (a) Section 11 (1B) (a) (iii)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines Regulation Act, 1982”.

(b) Section 11 (6)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines Regulation Act, 1982”.

Coal Mining Act, 1973, No. 81—

Section 21A (7)—

Omit the subsection, insert instead:—

(7) In this section, “owner” has the meaning ascribed thereto in the Coal Mines Regulation Act, 1982.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

Defamation Act, 1974, No. 18—

Section 17G—

After section 17F, insert:—

Reports under the Coal Mines Regulation Act, 1982.

17G. There is a defence of absolute privilege for the publication of a report referred to in section 94 of the Coal Mines Regulation Act, 1982, of an inspector appointed under that Act to or by the Minister administering that Act.

Dangerous Goods Act, 1975, No. 68—

Sections 5 (3), 41 (2)—

Omit “Coal Mines Regulation Act, 1912” wherever occurring, insert instead “Coal Mines Regulation Act, 1982”.

Coroners Act, 1980, No. 27—

(1) Schedule 1, clause 1, definition of “inspector”—

Omit “collieries under the Coal Mines Regulation Act, 1912”, insert instead “coal mines under the Coal Mines Regulation Act, 1982”.

(2) Schedule 1, clause 1, definition of “mine”—

Omit “of coal or shale to which the Coal Mines Regulation Act, 1912”, insert instead “to which the Coal Mines Regulation Act, 1982”.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINES REGULATION ACT, 1982—*continued.*

(3) Schedule 1, clause 2 (a)—

Omit “Coal Mines Regulation Act, 1912”, insert instead “Coal Mines
Regulation Act, 1982”.

SCHEDULE 3.

(Sec. 6.)

AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE
COAL MINING (AMENDMENT) ACT, 1982.

Coal Mines Regulation Act, 1912, No. 37—

(1) Section 3 (1), definition of “Colliery holding”—

Before the definition of “Court”, insert:—

“Colliery holding” has the meaning ascribed thereto in the Coal
Mining Act, 1973.

(2) Section 35A—

Omit the section.

Mines Rescue Act, 1925, No. 3—

Section 6 (1), definition of “colliery holding”—

Omit the definition, insert instead:—

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

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 3—*continued*AMENDMENTS CONSEQUENT ON THE ENACTMENT OF THE COAL
MINING (AMENDMENT) ACT, 1982—*continued.*

Mine Subsidence Compensation Act, 1961, No. 22—

Section 4, definition of “Colliery holding”—

Omit the definition, insert instead:—

“Colliery holding” has the meaning ascribed thereto in the Coal Mining
Act, 1973.

Mining Act, 1973, No. 42—

Section 6 (1), definition of “colliery holding”—

Omit the definition, insert instead:—

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

SCHEDULE 4.

(Sec. 7.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. (1) In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2) of the
Principal Act;

“Principal Act” means the Coal Mines Regulation Act, 1982;

“the 1912 Act” means the Coal Mines Regulation Act, 1912.

(2) Except in so far as the context or subject-matter otherwise indicates or
requires, expressions used in this Schedule have the same meanings as in the Principal
Act.(3) In this Schedule, a reference to a subclause is, unless a contrary intention
appears, a reference to a subclause of the clause in which the reference occurs.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***References to Coal Mines Regulation Act, 1912.**

2. A reference in any other Act, or in any statutory instrument or in any other document, whether of the same or of a different kind, to the Coal Mines Regulation Act, 1912, shall be read and construed as a reference to the Principal Act.

Appointments under the 1912 Act to be deemed to have been made under the Principal Act.

3. A person—

- (a) appointed to an office prescribed by the 1912 Act, being an office specified in Column 1 of the Table to this clause; and
- (b) holding that office immediately before the appointed day,

shall be deemed to have been appointed under the Public Service Act, 1979, for the purposes of the Principal Act to the office specified opposite that firstmentioned office in Column 2 of that Table.

TABLE.

Column 1.	Column 2.
Chief Inspector of Coal Mines. Deputy Chief Inspector of Coal Mines. Senior Inspector of Collieries. Inspector of Collieries. Senior Electrical Inspector. Electrical Inspector. Inspector of Mechanical Engineering.	Chief Inspector of Coal Mines. Deputy Chief Inspector of Coal Mines. Senior Inspector of Coal Mines. Inspector of Coal Mines. Senior Inspector of Electrical Engineering. Inspector of Electrical Engineering. Inspector of Mechanical Engineering.

Appointment under the Public Service Act to be deemed to have been made for the purposes of the Principal Act.

4. A person—

- (a) appointed to the office of Senior Inspector of Mechanical Engineering under the Public Service Act, 1979; and
- (b) holding that office immediately before the appointed day,

shall be deemed to have been appointed under the Public Service Act, 1979, for the purposes of the Principal Act to the office of Senior Inspector of Mechanical Engineering.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 4—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Qualifications held under the 1912 Act to be deemed to be held under the Principal Act.

5. A person who is, immediately before the appointed day, shown in the register maintained under section 14 of the 1912 Act as holding a qualification specified in Column 1 of the Table to this clause shall be deemed to hold, under the Principal Act, the qualification specified opposite that firstmentioned qualification in Column 2 of that Table.

TABLE.

Column 1.	Column 2.
First-class certificate of competency.	Certificate of competency to be a manager of a mine.
Second-class certificate of competency.	Certificate of competency to be an under-manager of a mine.
Third-class certificate of competency.	Certificate of competency to be a deputy.
Certificate of fitness to be a mine electrical engineer.	Certificate of competency to be a mine electrical engineer.
Certificate of competency as a mine mechanical engineer.	Certificate of competency to be a mine mechanical engineer.
Certificate of service as a mine mechanical engineer.	Certificate of competency to be a mine mechanical engineer.
Certificate of fitness to be a mine surveyor.	Certificate of competency to be a mine surveyor.

Holder of certificate of service as an assistant under-manager may be appointed as an under-manager.

6. A person who is, as at the appointed day, the holder of a certificate of service as an assistant under-manager granted pursuant to section 5AA (6) of the 1912 Act may, notwithstanding the provisions of the Principal Act, be appointed as an under-manager of a mine.

Continuation of permits to manage open cut workings.

7. (1) A permit granted pursuant to clause 4 (a) of the Eighth Schedule to the 1912 Act to manage an open cut working (which open cut working shall, for the purposes of this clause, be deemed to be an open cut mine) shall continue in force on the same terms and conditions notwithstanding the repeal of the 1912 Act.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) The Chief Inspector may, before 1st January, 1985, grant a permit to be manager of an open cut mine to a person who satisfies the Chief Inspector that he—

(a) is not less than 23 years of age; and

(b) has had the necessary experience to be the manager of an open cut mine.

(3) The Chief Inspector may from time to time renew a permit referred to in subclause (1) or (2) on such terms and conditions as he thinks fit.

(4) The Chief Inspector may revoke any permit referred to in subclause (1) or (2) or renewed under subclause (3) or vary any term or condition thereof.

(5) Notwithstanding the provisions of the Principal Act, the holder of a permit referred to in this clause shall be qualified to be appointed as the manager of the open cut mine to which the permit relates.

Issue of certificates of competency to holders of permits to manage open cut workings.

8. (1) Any person who has held a permit granted pursuant to clause 4 (a) of the Eighth Schedule to the 1912 Act or under clause 7 (2) for a period of 2 years may apply to the Chief Inspector for a recommendation to the Minister that he be granted a certificate of competency to be the manager of an open cut mine.

(2) The Chief Inspector on receipt of an application made under subclause (1) may make the recommendation applied for subject to such conditions as he thinks fit or refuse to make the recommendation.

(3) The Chief Inspector shall, before making a recommendation to the Minister under subclause (2), advise the applicant by notice in writing of any conditions contained in the recommendation.

(4) The Chief Inspector shall, if he refuses to make a recommendation under subclause (2), advise the applicant by notice in writing of that fact and the reasons therefor.

(5) A person who has made an application under subclause (1) may, within 28 days of service of a notice under subclause (3) or (4), appeal to a court against—

(a) any refusal by the Chief Inspector to make a recommendation; or

(b) any condition contained in a recommendation.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(6) A court may in respect of an appeal made under subclause (5)—

- (a) order the Chief Inspector to make a recommendation to the Minister subject to such conditions as it may specify; or
- (b) order that a condition contained in a recommendation be deleted, varied or added to.

(7) The Minister shall, on receipt of a recommendation by the Chief Inspector, grant a certificate of competency to be a manager of an open cut mine subject to such conditions as may be specified in the recommendation.

(8) A certificate of competency granted under this clause shall be deemed to be a certificate of competency to be a manager of an open cut mine granted under the Principal Act.

Issue of certificates of competency to holders of permits to be open cut examiners.

9. A person who, immediately before the appointed day, holds a permit to be an open cut examiner issued pursuant to clause 7 (a) of the Eighth Schedule to the 1912 Act shall, on application to the Board, be issued with a certificate of competency to be an examiner of an open cut mine.

Approvals and consents.

10. (1) For the purposes of this clause—

“apparatus” means all electrical appliances, machines and fittings in which conductors are used or of which they form a part and includes electric motors;

“circuit” means an arrangement of conductors for the purpose of carrying electrical current;

“conductor” means a wire, cable or other form of metal suitable for carrying current, but does not include wires, cables or other metallic parts directly employed in converting electrical energy into another form of energy.

(2) Any device, material, item, substance, machine, apparatus, conductor, circuit or electrical equipment which has been approved by the Chief Inspector pursuant to a provision of the 1912 Act shall be deemed to be approved by the Chief Inspector for the purposes of the Principal Act subject to the same terms and conditions.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(3) An approval granted by an inspector pursuant to General Rule 3 set out in section 54 of the 1912 Act shall continue in force subject to the same requirements notwithstanding that the 1912 Act has been repealed.

(4) Any consent given by the Minister pursuant to section 53BA (1) of the 1912 Act shall be deemed to be an approval given for the purposes of section 138 (1) of the Principal Act subject to the same conditions.

(5) Any approval or order given by the Minister pursuant to section 53BA (2) (e) of the 1912 Act shall be deemed to be an approval or direction for the purposes of section 138 (2) (c) or (d) of the Principal Act.

(6) Any approval given by the Minister pursuant to section 53BA (2) (f) of the 1912 Act shall be deemed to be an approval for the purposes of section 138 (2) (e) of the Principal Act on the same conditions.

(7) Any approval or consent given by the Minister pursuant to any condition or term contained in a coal lease granted under the Coal Mining Act, 1973, to the effect that the registered holder of the coal lease may use a method of working other than the bord and pillar system shall be deemed to be a consent given for the purposes of section 138 (1) of the Principal Act subject to the same conditions.

(8) Any approval or consent given by the Minister pursuant to any condition or term contained in a coal lease granted under the Coal Mining Act, 1973, to the effect that the registered holder of the coal lease can remove pillars (where he is using the bord and pillar system of workings) shall be deemed to be an approval given for the purposes of section 138 (2) (e) of the Principal Act subject to the same conditions.

(9) Any term or condition contained in a coal lease granted under the Coal Mining Act, 1973, to the extent that it authorises the giving of an approval or consent of a kind referred to in subclause (7) or (8) shall be deemed to be revoked with effect on and from the appointed day.

Certain instruments deemed to be instruments of a legislative or administrative character for the purposes of section 37 of the Interpretation Act, 1897.

11. For the purposes of section 37 of the Interpretation Act, 1897—

- (a) an instrument referred to in section 56 of the Principal Act; and
 - (b) rules and schemes referred to in Division 7 of Part IV of the Principal Act,
- shall be deemed to be instruments of a legislative or administrative character.

Miscellaneous Acts (Coal Mines Regulation) Repeal and Amendment.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Regulations.**

12. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act, the Principal Act or the Coal Mining (Amendment) Act, 1982.

(2) A provision made under subclause (1) may take effect—

- (a) where the provision is consequent on the enactment of this Act (section 6 and Schedule 3 excepted) or the Principal Act — as from the appointed day or a later day; or
- (b) where the provision is consequent on the enactment of section 6 and Schedule 3 or the Coal Mining (Amendment) Act, 1982—as from the day appointed and notified under section 2 (2) of that Act.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding the foregoing clauses of this Schedule.

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 20th May, 1982.*



