

New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

Act No. 73, 1902.

An Act to consolidate enactments relating to the regulation of Coal Mines and Collieries. [Assented to, 9th September, 1902.]

BE it enacted by the King'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:—

1. (1) This Act may be cited as the "Coal Mines Regulation Act, 1902," and is divided into Parts, as follows:—

Commencement, short title, and application of Act. 60 Vic. No. 12, ss. 72, 75.

PART I.—MINES REGULATION—

DIVISION 1.—*Certificated managers, under-managers, and engine-drivers*—ss. 4–15.

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DIVISION 3.—*Arbitration*—s. 25.

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PART II.—RULES—

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PART III.—SUPPLEMENTAL—

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First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All rules, regulations, and orders made or established, or deemed to have been made or established, all notices given or posted, all abstracts posted, all documents supplied, all certificates granted, all appointments made, and every other matter or thing duly done under or by virtue of the provisions of any enactment hereby repealed and in force, current, or operative at the commencement of this Act shall be of the same force and effect in all respects as if this Act had been in force when they were so made, established, given, granted, posted, supplied, or done, and they had been made, established, given, granted, posted, supplied, or done hereunder.

Interpretation of terms.

60 Vic. No. 12, ss. 1, 74.

3. (1) In this Act, unless the context otherwise indicates or requires,—

“Agent,” when used in relation to any mine, means any person appointed as the representative of the owner in respect of any mine, or of any part thereof, and as such superior to a manager appointed in pursuance of this Act.

“Boy”

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- “Boy” means a male under the age of sixteen years.
- “Inspector,” means an inspector of collieries referred to in or appointed under this Act.
- “Mine” includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine.
- “Owner,” when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine, subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability.
- “Plan” includes a correct copy or tracing of any original plan.
- “Shaft” includes pit.
- “The Minister” means the Secretary for Mines.

(2) This Act shall apply to mines of coal and mines of shale.

PART I.

MINES REGULATION.

DIVISION 1.—*Certificated managers, under-managers, and engine-drivers.*

4. (1) Every mine shall be under a manager, who shall be responsible for the control, management, and direction of the mine, and the owner or agent of every such mine shall nominate himself or some other person to be the manager of such mine, and shall send written notice to the inspector of the district of the manager's name and address.

Appointment of
manager of mine.
60 Vic. No. 12, s. 2.

(2) A person shall not be qualified to be a manager of a mine unless he is for the time being registered as the holder of a first-class certificate of competency or a certificate of service as manager under this Act, or under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or any Act thereby repealed.

(3)

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(3) If any mine is worked for more than fourteen days without there being such a manager for the mine as is required by this section, the owner or agent of the mine shall be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding five pounds for every day during which the mine is so worked; provided that—

- (a) the owner or agent of the mine shall not be liable to any such fine if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention of this section;
- (b) if for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of the mine may appoint any competent person not holding a certificate under this Act to be manager, for a period not exceeding two months or such longer period as may elapse before such person has an opportunity in the district wherein the mine is situate of obtaining by examination a certificate under this Act, and shall send to the inspector of the district a written notice of the manager's name and address, and of the reason for his appointment.

(4) In the case of a mine in which not more than twenty persons are employed, it shall be sufficient for the manager to hold a permit from an inspector; such permit shall remain in force for twelve months, but may be renewed at the option of the inspector.

Daily supervision
of mine by manager
or under-manager.

60 Vic. No. 12,
ss. 3, 4.

5. (1) In every mine required by this Act to be under the control of a certificated manager, daily personal supervision shall be exercised either by the manager or by an under-manager, nominated in writing by the owner or agent of the mine.

(2) Every under-manager so nominated must hold either a first-class or second-class certificate under this Act, or under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or any Act thereby repealed, or a certificate of service under section eight of this Act, or under any of the said Imperial Acts, and shall, in the absence of the manager, have the same responsibility and be subject to the same liabilities as the manager under this Act; but the nomination of an under-manager shall not affect the personal responsibility of the manager under this Act.

Disqualifications for
post of manager or
under-manager.

(3) A contractor for getting mineral in any mine, or person employed by such a contractor, is not eligible for the post of manager or under-manager of that mine under this Act.

Certificates of
competency to
managers and
under-managers.

Ibid. ss. 5, 6.

6. (1) There shall be two descriptions of certificates of competency under this Act—(1) first-class certificates, that is to say, certificates of fitness to be manager; and (2) second-class certificates, that

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that is to say, certificates of fitness to be under-manager; but no person shall be entitled to a certificate of competency under this Act unless he has had practical experience in a mine for at least five years.

(2) For the purpose of ascertaining the persons to receive certificates of competency for the purposes of this Act, examiners shall be appointed by a board consisting of—

Constitution of board for appointing examiners.

- (a) three persons being owners or agents of mines in New South Wales;
- (b) three persons employed or who have been employed in or about any mine in New South Wales not being owners, agents, or managers of a mine; and
- (c) three persons practising as mining engineers or managers of mines in New South Wales; and
- (d) one inspector under this Act.

(3) The members of the board shall be appointed and may be removed by the Minister, and shall hold office during his pleasure.

(4) The proceedings of the board shall be in accordance with the rules contained in the Second Schedule to this Act.

Proceedings and powers of board for appointing examiners.

(5) The board shall from time to time appoint examiners, not being members of the board except with the consent of the Minister, to conduct the examination of applicants for certificates of competency under this Act, and may make, alter, and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in New South Wales, and that the examination and qualifications of applicants for second-class certificates shall be suitable for practical working miners.

Second Schedule.

(6) The board shall make to the Minister a report of their proceedings, and of such other matters as the Minister may require.

7. The Minister may make, alter, and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act, the number and remuneration of the examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in the Third Schedule to this Act. Every such rule shall be observed by the board appointed under this Act.

Rules by Minister as to examinations. 60 Vic. No. 12, s. 7.

Third Schedule.

8. (1) A certificate of service shall be granted by the Minister to every person who satisfies him either that before the first day of October, one thousand eight hundred and ninety-six, he was acting, and has since that date acted, or that he has at any time within five years before the said date, for a period of not less than twelve months, acted in the capacity of an inspector or of a manager of a mine or such part of a mine as can under this Act be made a separate mine for the purposes of this Act.

Grant of certificates of service to existing managers. *Ibid.* s. 8.

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Grant of certificates of service in case of certain under-managers.

(2) A certificate of service shall be granted by the Minister to every person who satisfies him either that before the said date he was exercising, and has since that date exercised, or that he has at any time within five years before the said date, for a period of not less than twelve months, exercised functions substantially corresponding to those of an under-manager in a mine.

Third Schedule.

(3) Every such certificate of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered, and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Minister may direct, not exceeding that mentioned in the Third Schedule to this Act.

(4) A certificate of service granted under this section to an inspector or a manager shall have the same effect for the purposes of this Act as a first-class certificate of competency granted under this Act; and a certificate of service granted under this section to an under-manager shall have the same effect for the purposes of this Act as a second-class certificate of competency granted under this Act.

(5) Before granting a certificate of service to a manager or under-manager the Minister shall require the applicant to produce satisfactory evidence of his sobriety and general good conduct.

(6) No certificate of service shall be granted in terms of this section unless it be proved by statutory declaration that during the twelve months aforesaid there has been an average of not less than thirty miners employed below ground under the control and supervision of the applicant for the said certificate.

(7) A certificate of competency or of service granted under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or under any Act repealed thereby, or any other certificate of competency or service approved by the examiners, shall be equivalent in all respects to a similar certificate granted under this Act.

Grants of certificates to applicants on passing examination. 60 Vic. No. 12, s. 9.

9. (1) The Minister shall deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct, such a certificate of competency as the case requires. The certificate shall be in such form as the Minister directs.

Register of certificates.

(2) A register of the holders of certificates of competency or service under this Act and under any of the Imperial Acts aforesaid within the State shall be kept by such person and in such manner as the Minister directs.

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10. If at any time representation is made to the Minister by an inspector or otherwise that any manager or under-manager holding a certificate under this Act or under any Imperial Act is by reason of incompetency or gross negligence, unfit to discharge his duties, or has been convicted of an offence against this Act, the Minister may cause inquiry to be made into the conduct of the manager or under-manager, and with respect to every such inquiry the following provisions shall have effect—

Inquiry into competency of manager or under-manager, and cancellation of certificate in case of unfitness.

60 Vic. No. 12, s. 10.

- (a) the inquiry shall be public, and shall be held at such place as the Minister may appoint by such District Court Judge, police magistrate, or stipendiary magistrate, as may be directed by the Minister, and either alone or with the assistance of any assessor or assessors named by the Minister ;
- (b) the Minister shall, before the commencement of the inquiry, furnish to the manager or under-manager a statement of the case on which the inquiry is instituted ;
- (c) some person appointed by the Minister shall undertake the management of the case ;
- (d) the manager or under-manager may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case ;
- (e) the person or persons appointed to hold the inquiry, in this section and in section eleven referred to as the court, shall, on the conclusion of the inquiry, send to the Minister a report containing a full statement of the case, and the opinion of the court thereon, and such report of or extracts from the evidence as the court thinks fit ;
- (f) the court may cancel or suspend the certificate of the manager or under-manager if it finds that he is by reason of incompetency or gross negligence, or of his having been convicted of any offence against this Act, unfit to discharge his duty ;
- (g) the court may require a manager or under-manager to deliver up his certificate, and if any manager or under-manager fails without sufficient cause to the satisfaction of the court to comply with such requisition, he shall be liable to a fine not exceeding one hundred pounds. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore, cancel, or suspend the certificate according to its judgment on the case ;
- (h) the court shall have for the purpose of the inquiry, all the powers of a Court of Petty Sessions, and all the powers of an inspector under this Act ;
- (i) the court may also, by summons signed by the court, require the attendance of all such persons as it thinks fit to summon
and

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and examine for the purpose of the inquiry; and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court in its Common Law jurisdiction; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Prothonotary, who, on request signed by the court, shall ascertain and certify the proper amount of such expenses.

Costs and expenses of inquiry.
60 Vic. No. 12, s. 11.

11. (1) The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any stipendiary or police magistrate or any two justices of the peace in petty sessions, as if such costs and expenses were a fine imposed by that Court of Petty Sessions.

(2) The Minister may pay to the person or persons constituting the court, including any assessors, such remuneration as he may appoint.

(3) Any costs and expenses ordered by the court to be paid by the Minister, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament.

Record of cancellation of certificate; restoration in certain cases.
Ibid. s. 12.

12. (1) Where a certificate of a manager or under-manager is cancelled or suspended in pursuance of this Act, the Minister shall cause the cancellation or suspension to be recorded in the register of holders of certificates.

(2) The Minister may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act, and cause the renewal or restoration to be recorded in the register aforesaid.

Copy of certificate in case of loss.
Ibid. s. 13.

Third Schedule.

13. Whenever any person proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act or under any Imperial Act the Minister shall, on payment of such fee, if any, as he directs, but not exceeding the fee specified in the Third Schedule to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register, and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate.

Expenses in relation to certificates and application of fees.
Ibid. s. 14.

14. (1) All expenses incurred by the Minister in carrying into effect the provisions of this Act with respect to certificates of competency and service shall be defrayed out of moneys provided by Parliament.

(2)

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(2) All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the Treasury as the Treasurer directs, and be carried to the Consolidated Revenue Fund.

15. Every person who commits any of the following offences, that is to say—

Penalty for forgery of, or false declaration as to certificate. 60 Vic. No. 12, s. 15.

- (1) forges, or counterfeits, or knowingly makes any false statement in any certificate of competency, or of service granted under this Act or the Imperial Act fifty and fifty-one Victoria chapter fifty-eight, or any Act repealed thereby, or any official copy of any such certificate; or
- (2) knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement; or
- (3) for the purpose of obtaining for himself or any other person employment, as a certificated manager or under-manager, or the grant, renewal, or restoration of any certificate under this Act or under any of the said Imperial Acts, or a copy thereof, either—
 - (a) makes or gives any declaration, representation, statement, or evidence which is false in any particular; or
 - (b) knowingly utters, produces, or makes use of any such declaration, representation, statement, or evidence, or any document containing the same,

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for a term not exceeding two years, with or without hard labour.

DIVISION 2.—*Inspection.*

16. The persons who, on the first day of October, one thousand eight hundred and ninety-six, were acting as inspectors under the Act thirty-ninth Victoria number thirty-one, and are still continuing to act as such under the Act hereby repealed, shall continue to act in the same manner, and generally to be in the same position, as if they had been respectively appointed under this Act.

Existing inspectors continued. *Ibid.* s. 16.

17. (1) The Minister may appoint duly qualified persons to be inspectors (under whatever title he may fix) of mines, and assign them their duties, and may award them such salaries as he thinks fit or Parliament approves, and may remove any such inspector.

Appointment of inspectors of mines. *Ibid.* s. 17

(2) Notice of the appointment of every such inspector shall be published in the Gazette.

(3) Every such inspector is referred to in this Act as an inspector, and the inspector of a district means the inspector who is for the time being assigned to the district or portion of New South Wales with reference to which the term is used.

(4)

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Inspectors to hold certificates.

(4) Every inspector under this Act, shall hold a first-class certificate of competency or service as hereinbefore provided in regard to managers, but for the purposes of this Act service as an inspector of collieries will be equivalent to service as manager of a mine.

Disqualification of persons as inspectors. 60 Vic. No. 12, s. 18.

18. Any person who practises or acts as or is a partner of any person who practises or acts as a land agent or mining engineer, or as a manager, viewer, agent, or valuer of mines, or arbitrator in any difference arising between owners, agents, or managers of mines, or is otherwise employed in or about any mine, or is a miner's agent or a mine-owner (whether the mine is one to which this Act applies or not) shall not act as an inspector of mines under this Act, and no inspector shall be a partner or have any interest direct or indirect in any mine in the district under his charge.

Powers of inspectors. *Ibid.* s. 19.

19. (1) An inspector under this Act shall have power to do all or any of the following things, namely—

- (a) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine ;
- (b) to enter, inspect, and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine ;
- (c) to examine into and make inquiry respecting the state and condition of any mine or part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto, or the care and treatment of the horses and other animals used in the mine ;
- (d) to exercise such other powers as may be necessary for carrying this Act into effect.

(2) Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner, agent, and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination, or inquiry under this Act, in relation to the mine, shall be guilty of an offence against this Act.

Notice by inspector of causes of danger not expressly provided against. *Ibid.* s. 20

20. (1) If in any respect (which is not provided against by any express provision of this Act or by any special rule) any inspector finds any mine or any part thereof, or any matter, thing, or practice in or connected with any such mine, or with the control, management, or direction thereof by the manager to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the owner, agent, or manager of

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of the mine, and shall state in the notice the particulars in which he considers the mine or any part thereof, or any matter, thing, or practice to be dangerous or defective, and require the same to be remedied, and shall, unless the same be forthwith remedied, report the same to the Minister.

(2) If the owner, agent, or manager of the mine objects to remedy the matter complained of in the notice he may, within ten days after the receipt of the notice, send his objection in writing, stating the grounds thereof to the Minister, and thereupon the matter shall be determined by arbitration in manner provided by this Act, and the date of the receipt of the objection shall be deemed to be the date of the reference.

(3) If the owner, agent, or manager fails, when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or when there has been an arbitration to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of the offence:

Provided that the court, if satisfied that the owner, agent, or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4) No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section.

21. Every inspector of a district under this Act shall make an annual report of his proceedings during the preceding year to the Minister, which report, when embodied in the annual report of the Department of Mines, shall be laid before both Houses of Parliament.

Annual reports of
inspectors.
60 Vic. No. 12, s. 21.

22. Where in any mine an explosion or accident has caused loss of life or personal injury to any person, the Minister may at any time direct an inspector to make a special report with respect to the explosion or accident.

Special reports of
inspectors.
Ibid s. 22.

23. Where it appears to the Minister that a formal investigation of any explosion or accident and of its causes and circumstances is expedient, the Minister may direct such investigation to be held, and with respect to any such investigation the following provisions shall have effect—

Formal investigation
when directed by the
Minister.
Ibid s. 23.

- (1) The Minister may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation.

(2)

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- (2) The person or persons so appointed (hereinafter called the court) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and enabling the court to make the report in this section mentioned.
- (3) The court shall have for the purpose of the investigation all the powers of a Court of Petty Sessions when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers, namely—
 - (a) to enter and inspect any place or building, the entry or inspection whereof appears to the court requisite for the said purpose ;
 - (b) by summons signed by the court, to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make ;
 - (c) to require the production of all books, papers, plans, and documents which it considers important for the said purpose ;
 - (d) to require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.
- (4) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before the Supreme Court in its Common Law jurisdiction ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Prothonotary, who, on request signed by the court, shall ascertain and certify the proper amount of the expenses.
- (5) The court holding an investigation under this section shall make a report to the Minister, stating the causes of the explosion or accident and its circumstances, and adding any observations which the court thinks right to make.
- (6) All expenses incurred in and about an investigation under this section (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 the Act.
- (7) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, 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 section, or prevents or impedes the court
in

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in the execution of its duty, shall for every such offence be liable to a fine not exceeding ten pounds, and in the case of a failure to comply with a requisition for making any return or producing any document shall be liable to a fine not exceeding ten pounds for every day that such failure continues.

24. The Minister may cause any special report of an inspector or any report of a court, under this Part of this Act, to be made public at such time and in such manner as he may think fit.

Publication of reports.

60 Vic. No. 12, s. 24.

DIVISION 3.—*Arbitration.*

25. With respect to arbitrations under this Act, the following provisions shall have effect, and except where they are inconsistent, with the provisions of this Act the provisions of the Arbitration Act, 1902, shall apply to arbitrations under this Act—

Provisions as to arbitrations.

Ibid. s. 25.

- (a) the parties to the arbitration are in this section deemed to be the owner, agent, or manager of the mine on the one hand, and the inspector of mines (on behalf of the Minister) on the other ;
- (b) each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator ;
- (c) every person who is appointed an arbitrator under this section shall be a practical mining engineer or a person accustomed to the working of mines, and no person shall act as arbitrator or umpire, under this Act, who is employed in, or in the management of, or is interested in the mine to which the arbitration relates ;
- (d) the appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party ;
- (e) the death, removal, or other change in any of the parties to the arbitration shall not affect the proceedings under this section ;
- (f) if within the said fourteen days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final ;
- (g) if before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days refuses or neglects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place, and if he fails to do so within seven days after

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- after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final ;
- (h) in either of the foregoing cases where an arbitrator is empowered to act singly on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred ;
 - (i) if the arbitrators fail to make the award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned ;
 - (j) the arbitrators, before they enter on the matter referred to them, shall appoint, by writing under their hands, an umpire to decide on points on which they may differ ;
 - (k) if the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place ;
 - (l) if the arbitrators refuse or fail, or for seven days after the request of either party neglect to appoint an umpire, then, on the application of either party, an umpire shall be appointed by the Minister, and such umpire shall be a District Court Judge or a Chairman of Quarter Sessions within the jurisdiction of which the mine or any shaft of the mine is situate ;
 - (m) the decision of every umpire on the matters referred to him shall be final ;
 - (n) if a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place ;
 - (o) arrangements shall, wherever practicable, be made for the matter in difference being heard at the same time before the arbitrators and the umpire ;
 - (p) the arbitrators and the umpire, or any of them, may examine the parties and their witnesses on oath, and may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult ;
 - (q) the payment (if any) to be made to any arbitrator or umpire for his services shall be fixed by the Minister, and, together with

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with the costs of the arbitration and award, shall be paid by the parties, or one of them, according as the award directs. Such costs may be taxed by the Prothonotary, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount (if any) payable by the Minister shall be paid as part of the expenses of inspectors under this Act. The amount (if any) payable by the owner, agent, or manager may, in the event of non-payment, be recovered in the same manner as fines under this Act.

DIVISION 4.—*Coroners.*

26. (1) With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in or about mines, the following provisions shall have effect—

Provisions as to coroners' inquests on deaths from accident in mines.

60 Vic. No. 12, s. 26.

- (a) where a coroner holds an inquest on the body of any person whose death may have been caused by any explosion or accident, of which notice is required by this Act to be given to the inspector of the district, the coroner shall adjourn the inquest, unless an inspector, or some person on behalf of the Minister, is present to watch the proceedings;
- (b) the coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest;
- (c) the coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof;
- (d) if an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest at such time as to reach the inspector not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section if the majority of the jury think it unnecessary so to adjourn;
- (e) an inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner;
- (f) where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or defect;
- (g) any person having a personal interest in, or employed in, or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury impannelled

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impannelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury;

(h) any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held, and the owner, agent, or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent.

(2) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

DIVISION 5.—Returns, plan, notices, and abandonment.

Returns by owner,
agent, or manager of
mine.
60 Vic. No. 12, s. 27.

27. (1) On or before the twenty-first day of January in every year the owner, agent, or manager of every mine shall send to the inspector of the district on behalf of the Minister a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the particulars contained in the form in the Fourth Schedule to this Act, or in such other form as may be prescribed in lieu of that form by the Minister: Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B of the said form, unless or until the Minister otherwise prescribes.

(2) Forms for the purpose of the returns required by this section shall on application be furnished by the inspector on behalf of the Minister.

(3) The Minister may publish the aggregate results of the returns made under this section with respect to the whole of New South Wales, or any particular inspector's district, or any large portion of an inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought; but the portion of any individual return relating to the quantity of mineral gotten or wrought shall not be published without the consent of the person making the return, or of the owner of the mine to which it relates; and no person except an inspector, or the Minister, or the Under Secretary for Mines shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

(4) Every owner, agent, or manager of a mine who fails to comply with this section or makes any return which is to his knowledge false in any particular shall be guilty of an offence against this Act.

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28. (1) The owner, agent, or manager of every mine shall keep in the office at the mine an accurate plan of the workings of the mine, showing the workings up to a date not more than three months previously, and the general direction and rate of dip of the strata, together with the section of the strata sunk through, or, if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam, and in addition to the above mentioned plan there shall also be provided a tracing of a surface plan on the same scale showing thereon all streets, roads, buildings, creeks, rivers, bays, swamps, navigable waters, and limits of any tidal waters within the said boundary.

Plan of mine to be kept at office.
60 Vic. No. 12, s. 28.

(2) The owner, agent, or manager of the mine shall, on request at any time of an inspector under this Act, produce to him at the office at the mine such plan and section, and shall also on the like request mark on such plan and section the then state of the workings of the mine; and the inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof respectively.

(3) If the owner, agent, or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid, or wilfully withholds any portion thereof, or wilfully refuses on request to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment, imperfection, or inaccuracy) be guilty of an offence against this Act; and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner, agent, or manager to cause an accurate plan and section, showing the particulars hereinbefore required, to be made within a reasonable time at the expense of the owner of the mine. Every such plan must be on a scale of not less than two chains to the inch, or on the same scale as the plan for the time being in use at the mine.

(4) If the owner, agent, or manager fails within twenty days after the requisition of the inspector, or within such further time as is allowed by the Minister, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

(5) Every copy as aforesaid shall be deposited in the principal office of the Department of Mines and Agriculture, and, except as evidence in a court, no copy thereof shall be furnished nor information in relation thereto given; but if, on the complaint of any owner or lessee of the surface, or the accredited officer of any municipality, that his or their rights or interests may be affected by the

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working of the mine, the Minister thinks fit so to direct, the inspector shall furnish a tracing of such part of the workings as are situated under the surface in respect of which complaint has been made.

(6) If any officer furnishes any copy, tracing, or information, or allows any person to inspect any such plan or tracing, unless directed by the Minister as aforesaid, he shall be guilty of an offence against this Act.

Notice to be given of accidents in mines.
60 Vic. No. 12, s. 29.

29. (1) Where in or about any mine, whether above or below ground—

- (a) loss of life or any personal injury whatever to any person employed in or about the mine occurs by reason of any explosion of gas or of any explosive or of any steam-boiler; or
- (b) loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever,

the owner, agent, or manager of the mine shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident, and of the loss of life or personal injury occasioned thereby to the inspector of the district, on behalf of the Minister, and shall specify in the notice the character of the explosion or accident, and the number of persons killed or injured respectively.

(2) Where in or about any mine, whether above or below ground, loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred shall be left as it was immediately after the explosion or accident until the expiration of at least three days after the sending of such notice as aforesaid of such explosion or accident or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger, or would impede the working of the mine.

(3) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the district, on behalf of the Minister, within twenty-four hours after such death comes to the knowledge of the owner, agent, or manager.

(4) Every owner, agent, or manager who fails to act in compliance with this section shall be guilty of an offence against this Act.

Notice to be given of opening and abandonment of mine.
Ibid. s. 30.

30. In any of the following cases, namely—

- (a) where any working is commenced for the purpose of opening a new shaft for or a seam of any mine;
- (b) where a shaft or seam of any mine is abandoned, or the working thereof discontinued;
- (c) where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or
- (d)

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(d) where any change occurs in the name of any mine, or in the name of the owner, agent, or manager of any mine to which this Act applies, or in the principal officers of any incorporated company which is the owner of a mine, the owner, agent, or manager of the mine shall give notice thereof to the inspector of the district within one month after the commencement, abandonment, discontinuance, recommencement, or change; and if such notice is not given, the owner, agent, or manager shall be guilty of an offence against this Act.

31. (1) Where any mine is abandoned, or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof and every other person interested in the minerals of the mine shall cause the top of every shaft and every side entrance from the surface to be and to be kept securely fenced for the prevention of accidents: Provided that—

Fencing in case of
abandoned mine.
60 Vic. No. 12, s. 31.

(a) subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs, charges, and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect;

(b) nothing in this section shall exempt any person from any liability under any other Act or otherwise.

(2) If any person fails to act in conformity with this section he shall be guilty of an offence against this Act.

(3) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages, penalty, or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

(4) If any occupier of land or other person wilfully obstructs the owner of a mine or other person interested as aforesaid in doing any such acts he shall be guilty of an offence against this Act.

(5) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or unenclosed land, shall be deemed to be a public nuisance.

32. (1) Where any mine or seam is abandoned, the owner of the mine or seam at the time of its abandonment shall, within three months after the abandonment, send to the Minister an accurate plan showing the boundaries, the whole of the workings of the mine or seam up to the time of the abandonment, and the position of the workings with regard to the surface, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft, with

Plan of abandoned
mine or seam to be
sent to Minister.
Ibid. s. 32.

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a section of the seam. Every such plan must be on a scale of not less than two chains to the inch, or on the same scale as the plan used at the mine at the time of its abandonment.

(2) The plan and section shall be preserved under the care of the Minister; but no person, except as provided in section twenty-eight, other than an inspector under this Act, shall be entitled, without the consent of the owner or agent of the mine or seam, to see the plan when so sent until after the expiration of ten years from the time of the abandonment.

(3) The owner or agent aforesaid shall also, within three months of the abandonment of the mine or seam, send to the inspector of the district, on behalf of the Minister, a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this Act, the particulars required in that return; and the provisions of this Act with respect to the said annual return shall apply to the return so sent.

(4) If the owner or agent of a mine or seam fails to comply with this section he shall be guilty of an offence against this Act, and be liable to a fine not exceeding thirty pounds.

(5) A complaint or information of an offence under this section may be made or laid at any time within six months after abandonment of the mine or seam, or after service on the owner or agent aforesaid of a notice to comply with the requirements of this section, whichever last happens.

Service of notices.

60 Vic. No. 12, s. 33.

33. All notices under this Act shall be in writing, and when expressly so required, shall be in print, and all notices and documents required by this Act to be served or sent by or to an inspector may be either delivered personally, or served and sent by post by a registered letter.

DIVISION 6.—Employment of boys and females.

Boys under fourteen and females.

34. No boy under the age of fourteen years and no female shall be employed in or about a mine.

Hours of employment of boys.
Ibid. s. 34.

35. (1) No boys between the age of fourteen years and eighteen years shall be employed in or allowed to be, for the purposes of employment, in any mine below ground for more than nine hours on Monday, Tuesday, Wednesday, Thursday, Friday, and six hours on one Saturday and eight hours on the next Saturday.

Regulations as to employment of boys.

(2) For the purposes of this Act, with respect to the employment of such boys in a mine below ground, the following regulations shall have effect, that is to say—

- (a) there shall be allowed an interval of not less than twelve hours between each period of employment.
- (b) each period of employment shall be exclusive of one hour for meals,

(3)

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(3) The owner, agent, or manager of every mine shall keep in the office at the mine a register, and shall cause to be entered in that register, in such form as the Minister prescribes or sanctions, the name, age, residence, and date of first employment of all boys under the age of eighteen employed in the mine below ground, and of all such boys employed above ground in connection with the mine; and shall, on request, produce the register to any inspector under this Act, and to any officer of the Department of Public Instruction, at the mine, at all reasonable times, and shall allow any such inspector or officer to inspect and copy the same.

(4) The immediate employer of every such boy, other than the owner, agent, or manager of the mine, before he causes the boy to be below ground in any mine, shall report to the manager of the mine, or to some person appointed by that manager, that he is about to employ the boy in the mine.

36. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect to the employment of boys or females, or to the register of boys, or to reporting the intended employment of boys, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing, and, to the best of his power, enforcing the provisions of this Act, to prevent the contravention or non-compliance.

Penalty for employment of persons in contravention of Act.
60 Vic. No. 12, s. 36.

DIVISION 7.—*Wages.*

37. (1) No wages shall be paid to any person employed in or about any mine at or within any public-house, beer-shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging thereto or occupied therewith.

Prohibition of payment of wages at public-houses, etc.
Ibid. s. 37.

(2) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of this section, to prevent the contravention or non-compliance.

38. (1) Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, those persons shall be paid according to the actual weight gotten by them

Payment of persons employed in mines by weight.
Ibid. s. 38.

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them of the mineral contracted to be gotten, and the mineral gotten by them, shall be truly weighed at a place as near to the pit mouth as is reasonably practicable :

Provided that nothing in this section shall preclude the owner, agent, or manager of the mine from agreeing with the persons employed in the mine that deductions shall be made in respect of stones or substances other than the mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined in such special mode as may be agreed upon between the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner, agent, or manager, or, if any check-weigher is stationed for this purpose as hereinafter mentioned, by such person and such check-weigher, or in case of difference by a third person to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a Chairman of a Court of Quarter Sessions within the jurisdiction of which any shaft of the mine is situate.

(2) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with this section, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing, and to the best of his power, enforcing the provisions of this section to prevent the contravention or non-compliance.

(3) Nothing in this Act shall be held to authorise or give any power to any owner or manager of a mine to pay miners by the method known as the standard weight system, being the system abolished by the Act sixtieth Victoria number twelve hereby repealed.

(4) Where it is proved to the satisfaction of the Minister, in the case of any mine or class of mines employing not more than twenty persons under ground, to be expedient that the persons employed therein should, upon the joint representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this Act, such Minister may, if he think fit, by order, allow the same either without conditions or during the time and on the conditions specified in the order.

Agent may be
summoned for wages.
60 Vic. No. 12, s. 39.

39. Whenever any sum of money not exceeding fifty pounds is claimed to be due to any person on account of any kind of labour performed at any coal mine in charge of an owner or agent, any
justice

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justice of the peace or clerk of petty sessions upon complaint made to him touching or concerning the non-payment of any such sum, may summon such owner or agent to appear before any two justices of the peace at the nearest petty sessions, and the justices of the peace there assembled may examine the parties and their respective witnesses touching the complaint, and may inspect any agreement or duplicate copy thereof if produced, and may make an order for the payment by such owner or agent of such sum, not exceeding fifty pounds, as appears to such justices to be lawfully due, together with all costs incurred and damage sustained by the complainant in prosecuting such claim.

40. (1) The persons who are employed in a mine, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person, in this Act referred to as "a check-weigher," at each place appointed for the weighing of the mineral, and at each place appointed for determining the deductions, in order that he may, on behalf of the persons by whom he is so stationed, take a correct account of the weight of the mineral, or determine correctly the deductions, as the case may be. He shall be authorised to require that the process of weighing shall be carried on continuously throughout the working hours during the whole time that the pit is drawing coal.

Appointment on part
of men, and removal
of check-weigher.

60 Vic. No. 12,
ss. 40, 61.

(2) A check-weigher shall have every facility afforded to him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the taring of tubs and trams where necessary, and including also the continuous weighing of the coal; and if at any time proper facilities are not afforded to a check-weigher as required by this section, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to enforce to the best of his power the requirements of this section.

(3) A check-weigher shall not be authorised in any way to impede or interrupt the working of the mine, or to interfere with the weighing, or with any of the workmen, or with the management of the mine; but shall be authorised only to fulfil the duties in the two preceding subsections mentioned, and the absence of a check-weigher from the place at which he is stationed shall not be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner, agent, or manager, unless the absent check-weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with:

Provided always that nothing in this section shall prevent a check-weigher giving to any workman an account of the mineral gotten

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gotten by him, or information with respect to the weighing or the weighing-machine, or the taring of the tubs or trams, or with respect to the deductions, or any other matter within the scope of his duties as check-weigher, so always, nevertheless, that the working of the mine be not interrupted or impeded.

(4) If the owner, agent, or manager of the mine desires the removal of a check-weigher on the ground that the check-weigher has impeded or interrupted the working of the mine, or interfered with the weighing or with any of the workmen, or with the management of the mine, or has at the mine, to the detriment of the owner, agent, or manager, done anything beyond taking such account, determining such deductions, or giving such information as aforesaid, the owner, agent, or manager may complain to the nearest court of petty sessions, who, if of opinion that the owner, agent, or manager shows sufficient prima facie ground for the removal of the check-weigher, shall call on the check-weigher to show cause against his removal.

(5) On the hearing of the case the court shall hear the parties, and if they think that at the hearing sufficient ground is shown by the owner, agent, or manager to justify the removal of the check-weigher, shall make a summary order for his removal, and the check-weigher shall thereupon be removed, but without prejudice to the stationing of another check-weigher in his place.

(6) Proceedings for the removal of a check-weigher shall be deemed to be a matter on which justices in petty sessions have authority by law to make an order, and the court may in every case make such order as to the costs of the proceedings as the court may think just.

(7) If in pursuance of any order of exemption made by the Minister the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of this Act shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly.

(8) If the person appointed by the owner, agent, or manager to weigh the mineral impedes or interrupts the check-weigher in the proper discharge of his duties, or improperly interferes with or alters the weighing-machine or the tare in order to prevent a correct account being taken of the weighing and taring, he shall be guilty of an offence against this Act.

Remuneration of
check-weigher.
60 Vic. No. 12, s. 41.

41. (1) Where a check-weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine and so paid his proportion of the check-weigher's wages

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wages or recompense, notwithstanding that any of the persons by whom the check-weigher was appointed may have left the mine or others have entered the same since the check-weigher's appointment, any rule of law or equity to the contrary notwithstanding.

(2) It shall be lawful for the owner or manager of any mine, where the majority of the before-mentioned persons, ascertained as aforesaid, so agree, to retain the agreed contribution of the persons so employed and paid as aforesaid for the check-weigher, and to pay and account for the same to the check-weigher.

42. (1) The Weights and Measures Act, 1898, and any Act relating to weights and measures, shall apply to all weights, balances, scales, steelyards, and weighing-machines used at any time for determining the wages payable to any person employed in the mine according to the weight of the mineral gotten by him, in like manner as it applies to weights, balances, scales, steelyards, and weighing-machines used for trade.

Inspection of weights,
&c., used in mines.
60 Vic. No. 12, s. 42.

(2) An inspector of weights and measures appointed under the said Act shall once at least in every six months inspect and examine in manner directed by the said Act the weights, balances, scales, steelyards, and weighing-machines used or in the possession of any person for use as aforesaid at any mine within his district; and shall also make such inspection and examination at any other time in any case where he has reasonable cause to believe that there is in use at the mine any false or unjust weight, balance, scale, steelyard, or weighing-machine.

(3) The inspector shall also inspect and examine the measures and gauges in use at the mines within his district; but nothing in this section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine.

(4) An inspector may, for the purposes of this section, without any authorisation from a justice of the peace, exercise at or in any mine, as respects all weights, measures, scales, balances, steelyards, and weighing-machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise, if authorised in writing by a justice of the peace, under the Weights and Measures Act, 1898, with respect to any such weights, measures, scales, balances, steelyards, and weighing-machines as therein mentioned; and all the provisions of sections twelve and thirteen of that Act, including the liability to penalties, shall apply to such inspection.

(5) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, impede or obstruct the working of the mine.

DIVISION

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Prohibition of single shafts.
60 Vic. No. 12, s. 43.

43. (1) The owner, agent, or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the following conditions respecting shafts or outlets are complied with, that is to say—

- (a) There must be at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine.
- (b) Such shafts or outlets must not at any point be nearer to one another than fifty yards, and there shall be between such two shafts or outlets a communication not less than four feet wide and six feet high.
- (c) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine, and such apparatus if not in actual use at the shafts or outlets shall be constantly available for use.

(2) Every owner, agent, and manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Act.

(3) The Supreme Court, whether any other proceedings have or have not been taken, may, on the application of the Attorney-General, prohibit by injunction the working of any mine in which any person is employed, or is permitted to be for the purpose of employment in contravention of this section, and may award such costs in the matter of the injunction as the Court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

(4) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner, agent, or manager of the mine not less than ten days before the application is made.

Agreements not to preclude compliance with Act
Ibid. s. 44.

44. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine, where the same is required by this Act or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Exceptions from provisions as to shafts.
Ibid. s. 45.

45. (1) The foregoing provisions of this Act with respect to shafts or outlets shall not apply—

- (a) in the case of a new mine being opened—
 - (i) to any working for the purpose of making a communication between two or more shafts;
 - (ii)

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- (ii) to any working for the purpose of searching for or proving minerals ;
so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet ; nor
- (b) to any proved mine, so long as it is exempted by order of the Minister, on the ground either—
- (i) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable ; or
- (ii) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam ;
and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet ; nor
- (c) to any mine—
- (i) while a shaft is being sunk or an outlet being made ; or
- (ii) one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine ;
so long as the mine is exempted by order of the Minister, and as the conditions, if any, annexed to the order of exemption are duly observed.
- (2) The provision in this Act requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifty yards shall not apply to any mine which was provided with two shafts sunk before the first day of October, one thousand eight hundred and ninety-six, but at that time separated by a distance of less than ten feet or commenced to be sunk before the said date, but separated by a distance of more than ten feet and less than fifty yards.
- (3) The foregoing provisions of this Act as to the dimensions of the communication between two shafts or outlets shall not apply to any mine or class of mines so long as the same is exempted therefrom by order of the Minister, by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions, if any, annexed to the order of exemption are duly observed.

DIVISION

Coal Mines Regulation.

 DIVISION 9.—*Division of mine into parts.*

Division of mine
into parts.
60 Vic. No. 12, s. 46.

46. (1) Where two or more parts of a mine are worked separately, the owner, agent, or manager of the mine shall give notice in writing to that effect to the inspector of the district, and thereupon each such part shall, for all purposes of this Act, be deemed to be a separate mine.

(2) If the Minister is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner, agent, or manager of the mine; and the owner, agent, or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district, stating that he declines to acquiesce, and thereupon the matter shall be determined by arbitration in manner provided by this Act, and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

PART II.

RULES.

 DIVISION 1.—*General rules.*

General rules.
Ibid. s. 47.

47. The following general rules shall be observed, so far as is reasonably practicable, in every mine—

Ventilation of mines.

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working-place of the shafts, levels, stables, and workings of the mine, and the travelling roads to and from those working-places shall be in a fit state for working and passing therein. The ventilation so produced shall be the supply of pure air in quantity not less than one hundred cubic feet per minute for each man, boy, and horse employed in the mine, which air in that proportion, but with as much more as the inspector shall direct, shall sweep along the airways and be forced as far as the face of and into each and every working-place where man, boy, or horse is engaged or passing, main return airways only excepted.

Every mine, except such as are worked on the long-wall system, shall be divided into districts or splits of not more than seventy men in each; and each district shall be supplied with a separate current of fresh air. The intake air shall travel free

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free from all stagnant water, stables, and old workings. In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

Rule 2. Where a fire is used for ventilation in any mine newly opened after the first day of October, one thousand eight hundred and ninety-six, the return air, unless it is so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift or airway. Ventilation by fire.

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the last-mentioned date, it shall be in such position and placed under such conditions as will tend to insure its being uninjured by an explosion. Ventilation by machinery

Rule 4. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require, and the following provisions shall have effect:— Stations and inspections of conditions as to ventilation, &c.

(a) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner, agent, or manager for the purpose, not being a contractor for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof, and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflammable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, the condition of the ventilation, and what defects, if any, in roofs or sides, and what if any other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and, so far as the same does not consist of printed matter, shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift. (b)

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(b) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

Inspection of
machinery, &c.,
above and below
ground.

Rule 5. A competent person or competent persons, appointed by the owner, agent, or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Fencing of
entrances.

Rule 6. Every entrance to any place which is not in actual use or course of working and extension shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

Withdrawal of
workmen in case of
danger.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas, shall inspect the mine or part with a locked safety-lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be readmitted into the mine, or part so found dangerous, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Rule

Coal Mines Regulation.

Rule 8. No lamp or light other than a locked safety-lamp shall be allowed or used,— Use of safety-lamps in certain places.

- (a) in any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or
- (b) in any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety-lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return airway.

Rule 9. Wherever safety-lamps are used, they shall be so constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable. Construction of safety-lamps.

Rule 10. In any mine or part of a mine in which safety-lamps are required by this Act, or by the special rules made in pursuance of this Act to be used,— Examination of safety-lamps.

- (a) a competent person appointed by the owner, agent, or manager for the purpose shall, either at the surface, or at the appointed lamp station, examine every safety-lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked, and such lamps shall not be used until they have been so examined and found in safe working order and securely locked;
- (b) a safety-lamp shall not be unlocked except either at the appointed lamp station or for the purpose of firing a shot, in conformity with the provisions hereinafter contained;
- (c) a person, unless he has been appointed either for the purpose of examining safety-lamps, or for the purpose of firing shots, shall not have in his possession any contrivance for opening the lock of any safety-lamp;
- (d) a person shall not have in his possession any lucifer match or apparatus of any kind for striking a light except within a completely closed chamber attached to the fuse of the shot.

Rule 11. Where safety-lamps are required to be used, the position of the lamp stations for lighting or relighting the lamps shall not be in the return air. Lamp stations.

Rule

Coal Mines Regulation.

Use of explosives
below ground.

Rule 12. Any explosive substance shall only be used in the mine below ground, as follows—

- (a) it shall not be stored in the mine ;
- (b) it shall not be taken into the mine, except in cartridges in a secure case or canister containing not more than five pounds: Provided that on the application of the owner, agent, or manager of any mine, the Minister may, by order, exempt such mine from so much of this rule as forbids taking an explosive substance into the mine except in cartridges ;
- (c) a workman shall not have in use at one time in any one place more than one of such cases or canisters ;
- (d) in the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel pricker, scraper, charger, tamping rod, or stemmer ; nor in any mine or part of a mine in which safety-lamps are required by this Act to be used shall dry coal or coal-dust be used for tamping ;
- (e) no explosive shall be forcibly pressed into a hole of insufficient size, and when a hole has been charged, the explosive shall not be unrammed ; and no hole shall be bored for a charge at a distance of less than six inches from any hole where the charge has missed fire : Provided that in cases where a fuse is used no person shall return to a place where such charge has missed fire until a period of eight hours has elapsed from the lighting of the fuse attached to such charge ;
- (f) in any place in which the use of a locked safety-lamp is for the time being required by or in pursuance of this Act, or which is dry and dusty, no shot shall be fired except by, or under the direction of, a competent person appointed by the owner, agent, or manager of the mine ; and such person shall not fire the shot or allow it to be fired until he has examined both the place itself where the shot is to be fired and all contiguous accessible places of the same seam within a radius of twenty yards, and has found such place safe for firing ;
- (g) if in any mine, at either of the inspections under Rule four recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district in which the shot is to be fired, the shot shall not be fired—
 - (i) unless a competent person, appointed as aforesaid, has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place sufficient gas issuing or accumulated to render it unsafe to fire the shot ; or
 - (ii)

Coal Mines Regulation.

- (ii) unless the explosive employed in firing the shot is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas ;
- (h) if the place where a shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say—
 - (i) unless the place of firing and all contiguous accessible places within a radius of twenty yards therefrom are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides ; or
 - (ii) in the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust ;
- (i) if such dry and dusty place is part of a main haulage road, or is a place contiguous thereto, and showing dust adhering to the roof and sides, no shot shall be fired there unless—
 - (i) both the conditions mentioned in sub-rule (h) have been observed ; or
 - (ii) unless such one of the conditions mentioned in sub-rule (h) as may be applicable to the particular place has been observed, and moreover all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam-boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine ;
- (k) in this Act “ventilating district” means such part of a seam as has an independent intake commencing from a main intake air-course, and an independent return air-way terminating at a main return air-course; and “main haulage road” means a road which has been, or for the time being is, in use for moving trams by steam or other mechanical power ;
- (l) where a seam of a mine is not divided into separate ventilating districts the provisions in this Act relating to ventilating districts shall be read as though the word “seam” were substituted for the words “ventilating district.”

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Water and
bore-holes.

Rule 13. Where any place is likely to contain a dangerous accumulation of water, the working approaching that place shall not at any point within forty yards of that place exceed eight feet in width, and there shall be constantly kept at a sufficient distance, not being less than five yards in advance, at least one bore-hole, near the centre of the working, and sufficient flank bore-holes on each side.

Signalling and
man-holes for
travelling planes
worked by
machinery.

Rule 14. Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass, or gin, shall be provided, if exceeding thirty yards in length, with some proper means of communicating distinct and definite signals between the stopping-places and the ends of the plane, and shall be provided in every case with sufficient man-holes or places of refuge, at intervals of not more than twenty yards, and of not more than six feet high, three feet wide, and four feet deep, or if there is not room for a person to stand between the side of a tub and the side of the plane, then, unless the tubs are moved by an endless chain or rope, at intervals of not more than ten yards.

Man-holes for other
travelling roads.

Rule 15. Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient man-holes or places of refuge, and every such place of refuge shall be of sufficient length, and at least three feet in width between the waggons running on the road and the side of such road. There shall be at least two proper travelling ways in every steam-engine room and boiler gallery.

Man-holes to be
kept clear.

Rule 16. Every man-hole and every place of refuge shall be constantly kept clear, and no person shall place anything in any such man-hole or place of refuge.

Dimensions of
travelling roads.

Rule 17. Every travelling road on which a horse or other draught animal is used underground shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing against the roof or timbering.

Fencing of shafts.

Rule 18. The top of every shaft which for the time being is out of use, or used only as an air-shaft, shall be and shall be kept securely fenced.

Trolley over pit
mouth.

Rule 19. Every shaft in course of sinking shall be provided with a trolley to run over the pit's mouth and receive the load when brought to the surface. Such trolley to be large enough to cover the opening at the pit top.

Fencing of entrances
to shafts.

Rule 20. The top and all entrances between the top and bottom, including the sump, if any, of every working, ventilating, or pumping shaft shall be properly fenced, but this shall not be taken

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taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used.

Rule 21. Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure. Every shaft in course of sinking shall be kept clear of all noxious gases by a fan or some other appliance.

Securing of shafts.

Sinking pit to be cleared of gas.

Rule 22. The roof and sides of every travelling road and working-place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working-place which is not made so secure.

Securing of roofs and sides.

Rule 23. Where the timbering of the working-places is done by the workmen employed therein, suitable timber shall be provided at the working-place, gate end, pass-by, siding, or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where they are required shall not exceed six feet or such less distance as may be ordered by the owner, agent, or manager.

Timbering.

Rule 24. Where there is a downcast and furnace shaft to the same seam, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, on giving reasonable notice, have the option of using the downcast shaft.

Option of using downcast shaft.

Rule 25. In any mine which is usually entered by means of machinery a competent male person not less than twenty-two years of age shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for that purpose during the whole time that any person is below ground in the mine.

Attendance of engineman.

Where any shaft, plane, or level is used for the purpose of communication from one part to another part of a mine, and persons are taken up or down or along such shaft, plane, or level by means of any engine, windlass, or gin driven or worked by steam or any mechanical power, or by an animal or by manual labour, the person in charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith, must be a competent male person not less than eighteen years of age.

Where the machinery is worked by an animal, the person under whose direction the driver of the animal acts shall for the purpose of this rule be deemed to be the person in charge of the machinery.

Rule

Coal Mines Regulation.

Means of signalling
for working shafts.

Rule 26. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector of the district, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft, and to every entrance for the time being in use between the surface and the bottom of the shaft.

Overwinding.

Rule 27. If in any mine the winding apparatus is not provided with some automatic contrivance to prevent overwinding, then the cage when men are being raised shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules.

Cover overhead.

Rule 28. A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the inspector of the district.

Chains.

Rule 29. A single-linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to the cage or tub.

Prevention of rope
slipping on drum.

Rule 30. There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping.

Brake and indicator.

Rule 31. There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate brake or brakes and a proper indicator, in addition to any mark on the rope, showing to the person who works the machine the position of the cage or tub in the shaft. If the drum is not on the crank shaft there shall be an adequate brake on the drum shaft.

Fencing machinery.

Rule 32. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and shall be kept securely fenced.

Safety-valves and
gauges for boilers.

Rule 33. Each steam-boiler, whether separate or one of a range, shall have attached to it a proper safety-valve and also a proper steam-gauge and water-gauge to show respectively the pressure of steam and the height of water in each boiler.

Barometer, &c.

Rule 34. A barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

Rule

Coal Mines Regulation.

- Rule 35.* Where persons are employed underground, ambulances Stretchers. or stretchers, with splints and bandages, shall be kept at the mine ready for immediate use in case of accident.
- Rule 36.* No person shall wilfully damage, or without proper Wilful damage. authority remove or render useless, any fence, fencing, man-hole, place of refuge, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act.
- Rule 37.* Every person shall observe such directions with respect Observance of directions. to working as may be given to him with a view to comply with this Act or the special rules in force in the mine.
- Rule 38.* The books mentioned in these rules shall be provided Books and copies thereof. by the owner, agent, or manager, and the books, or a correct copy thereof, shall be kept at the office of the mine, and any inspector under this Act and any person employed in the mine may, at all reasonable times, inspect and take copies of and extracts from any such books; but nothing in these rules shall be construed to impose the obligation of keeping any such book or a copy thereof for more than twelve months after the book had ceased to be used for entries therein under this Act. Any report by this Act required to be recorded in a book may be partly in print, including lithograph, and partly in writing.
- Rule 39.* The persons employed in a mine may from time to time Periodical inspection on behalf of workmen. appoint two of their number or any two persons not being mining engineers who are practical working miners to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return air-ways, ventilating apparatus, old workings and machinery. Every facility shall be afforded by the owner, agent, and manager, and all persons in the mine for the purpose of inspection, and the persons appointed shall forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept in the mine for the purpose, and shall be signed by the persons who made the inspection, and if the report states the existence or apprehended existence of any danger, the owner, agent, or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district.
- Rule 40.* No person other than a person employed or working on Person not to be employed in coal-getting without experience. the fifth day of November, one thousand nine hundred as a No. 44, 1900, s. coal-getter

Coal Mines Regulation.

coal-getter or shale-getter shall work or be allowed to work as a coal-getter or a shale-getter in the face of the workings of a mine, unless—

- (a) he has been employed or has worked for two years in or about the face of the workings of a mine as coal-getter or shale-getter; or
- (b) he works in company with a person who has been employed or has worked for two years in or about the face of the workings of a mine as a coal-getter or a shale-getter.

Penalty for interference with office of check-inspector or check-weigher.

Rule 41. If the owner, agent, or manager of any mine or any persons employed by or acting under the instructions of any such owner, agent, or manager interferes with the appointment of a check-inspector or check-weigher, or refuses to afford proper facilities for the holding of any meeting for the purpose of making such appointment, or attempts, whether by threats, bribes, promises, notice of dismissal or otherwise howsoever, to exercise improper influence in respect of such appointment, or to induce the persons entitled to appoint a check-inspector or a check-weigher or any of them not to reappoint any particular person, or to vote for or against any particular person, in the appointment of a check-inspector or check-weigher, such owner, agent, or manager shall be guilty of any offence against this Act.

No. 44, 1900, s. 5.

Rule 42. Every sinking shaft exceeding one hundred and fifty feet in depth shall be provided with guides and guide attachments applied in such manner as to prevent the bucket or other appliance from swinging while being lowered or raised in such shaft, and such guides and guide attachments shall be maintained from the surface to a distance of not more than seventy-five feet from the bottom of such shaft until its sinking has been completed.

Ibid. s. 3.

48. Where it is reported to an inspector, and such inspector is satisfied after due inquiry, that any person is working in any mine in contravention of the provisions of rule forty of section forty-seven, he may, after giving notice to the owner of the mine, or his agent or manager, order such person to cease working, and such person shall thereupon cease working as aforesaid.

Penalty on non-compliance with rules.
60 Vic. No. 12, s. 48.

49. Every person who contravenes or does not comply with any of the general rules in this Act shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

DIVISION

*Coal Mines Regulation.*DIVISION 2.—*Special rules.*

50. (1) There shall be established in every mine such rules, referred to in this Act as special rules, for the conduct and guidance of the persons acting in the management of such mine or employed in or about the mine as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety, convenience, and proper discipline of the persons employed in or about the mine.

Special rules for every mine.
60 Vic. No. 12, s. 49.

(2) Such special rules, when established, shall be signed in duplicate by the inspector who is inspector of the district at the time the rules are established, and shall be observed in and about every such mine, including any extension thereof, in the same manner as if they were enacted in this Act.

(3) If any person who is bound to observe the special rules established for any mine acts in contravention of or fails to comply with any of them, he shall be guilty of an offence against this Act, and also the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the rules and regulations for the working of the mine, so as to prevent such contravention or non-compliance.

51. (1) The owner, agent, or manager of every mine shall frame and transmit to the inspector of the district, for approval by the Minister, special rules for the mine within three months after the commencement of any working for the purpose of opening a new mine or of renewing the working of an old mine.

Establishment of new special rules.
Ibid. s. 50.

(2) The proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom, may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice, shall, during not less than two weeks before the rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules for the information of persons employed in the mine; and a certificate that the rules and notice have been so posted up shall be sent to the inspector, with two copies of the rules signed by the person sending the same.

(3) If the rules are not objected to by the Minister within forty days after their receipt by the inspector they shall be established.

52. (1) If the Minister is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine or for the safety or convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the

The Minister may object to special rules.
Ibid. s. 51.

the

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the inspector, object to the rules, and propose to the owner, agent, or manager, in writing, any modification in the rules, by way either of omission, alteration, substitution, or addition.

(2) If the owner, agent, or manager does not, within twenty days after the modifications proposed by the Minister are received by him, object in writing to them, the proposed special rules, with those modifications, shall be established.

(3) If the owner, agent, or manager sends his objection in writing within the said twenty days to the Minister, the matter shall be referred to arbitration under this Act, and the date of the receipt of the objection by the Minister shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

Amendment of
special rules.
60 Vic. No. 12, s. 52.

53. (1) After special rules are established under this Act in any mine, the owner, agent, or manager of the mine may propose in writing to the inspector of the district, for the approval of the Minister, any amendment of the rules or any new special rules; and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as nearly as may be, as they apply to the original rules.

(2) The Minister may propose in writing to the owner, agent, or manager of the mine any new special rules, or any amendment of the special rules; and the provisions of this Act with respect to a proposal of the Minister for modifying the special rules transmitted by the owner, agent, or manager of a mine, shall apply to all such new special rules and amendments in like manner, as nearly as may be, as they apply to the proposal.

False statements,
and neglect to
transmit special
rules.
Ibid. s. 53.

54. If the owner, agent, or manager of any mine makes any false statement with respect to the posting up of the rules and notices, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the inspector for the approval of the Minister, the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by enforcing to the best of his power the provisions of this Act, to secure the transmission of the rules.

Certified copy of
special rules to be
evidence.
Ibid. s. 54.

55. An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which, for the time being, are established under this Act in any mine, and a copy so certified shall be evidence of such special rules, and of the fact that they are duly established under this Act and have been signed by the inspector.

Special rules made
by the Governor.
Ibid. s. 55

56. The Governor may make and publish in the Gazette a set or sets of special rules, and thereafter the rules so made and published shall be deemed the special rules of every mine to which this Act applies

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applies and in respect of which no special rules shall be in force: Provided that upon special rules being established for any mine, the special rules made by the Governor as aforesaid shall cease to apply to such mine.

DIVISION 3.—*Publication of abstract of Act and of special rules.*

57. For the purpose of making known the provisions of this Act and the special rules to all persons employed in and about each mine, an abstract of this Act supplied, on the application of the owner, agent, or manager of the mine, by the inspector of the district on behalf of the Minister, and a correct copy of all the special rules shall be published, as follows—

Publication of abstract of Act and copy of special rules. 60 Vic. No. 12, s. 57.

- (a) the owner, agent, or manager of the mine shall cause the abstract and copy of the rules, with the name of the mine and the name and address of the inspector of the district, and the name of the owner, or agent, and of the manager, appended thereto, to be posted up, in legible characters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch;
- (b) the owner, agent, or manager shall supply a printed copy of the abstract, and the special rules, gratis to each person employed in or about the mine who applies for a copy at the office at which the persons immediately employed by the owner, agent, or manager are paid;
- (c) every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and the employed.

In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act; but the owner, agent, or manager of such mine shall not be deemed guilty if he proves that he had taken all reasonable means, by enforcing, to the best of his power, the observance of this section to prevent such non-compliance.

58. Every person who pulls down, injures, or defaces any abstract, notice, proposed special rules, or special rules, when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

Fulling down or defacing notices. *Ibid.* s. 58.

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PART III.

SUPPLEMENTAL.

DIVISION 1.—*Legal proceedings.*

Penalty for offences
against Act.
60 Vic. No. 12, s. 59

59. Every person employed in or about a mine other than an owner, agent, or manager, who is guilty of any act or omission, which, in the case of an owner, agent, or manager, would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

60. Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed, shall be liable to a fine not exceeding, if he is an owner, agent, or manager, or under-manager, twenty pounds, and if he is any other person, two pounds for each offence; and if an inspector has given written notice of any such offence, to a further fine not exceeding five pounds for every day after such notice that such offence continues to be committed.

Imprisonment for
wilful neglect
endangering life or
limb.
Ibid. s. 60.

61. Where a person who is an owner, agent, manager, or under-manager of, or a person employed in or about a mine, is guilty of any offence against this Act which, in the opinion of the court that tries the case, is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a fine will not meet the circumstances of the case, to imprisonment with or without hard labour for a period not exceeding three months.

General provisions as
to summary proceed-
ings.

Ibid. s. 62.
No. 44, 1900, s. 6.

62. In every part of New South Wales the following provisions shall have effect:—

- (a) Any complaint or information made or laid in pursuance of this Act shall (save as otherwise expressly provided by this Act) be made or laid within six months from the time when the matter of the complaint or information arose.
- (b) Any person charged with any offence under this Act may, if he thinks fit, be sworn and examined as an ordinary witness in the case.
- (c) The court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

Liability for mis-
representation as to
age, &c.
Ibid. s. 4.

63. Where, in consequence of any false representation and under the belief in good faith that such representation is true, any boy is employed at an age at which his employment is a contravention of this

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this Act, or any person is allowed to work as a coal-getter or a shale-getter in the face of the workings of a mine in contravention of the provisions of this Act, the owner, agent, or manager of the mine and employer shall be exempted from any penalty for such contravention; and the person making the false representation shall be deemed guilty of an offence against this Act.

64. No prosecution shall be instituted against the owner, agent, manager, or under-manager of a mine for any offence under this Act, not committed personally by such owner, agent, manager, or under-manager, which can be prosecuted before justices of the peace in petty sessions, except by an inspector or with the consent in writing of the Minister; and in the case of any offence of which the owner, agent, manager, or under-manager of a mine is not guilty, if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner, agent, manager, or under-manager, if satisfied that he had taken such reasonable means as aforesaid. No prosecution shall be instituted against a coroner for any offence under this Act, except with the consent in writing of the Minister.

Prosecution of owners, agents, managers, &c.
60 Vic. No. 12, s. 65.

65. Where the owner, agent, or manager of a mine has taken proceedings under this Act against any person employed in or about a mine in respect of an offence committed under this Act, he shall within twenty-one days after the hearing of the case report the result thereof to the inspector of the district.

Report of result of proceedings against workmen.
Ibid. s. 66.

66. (1) Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so, however, that no person be punished twice for the same offence.

Saving for proceedings under other Acts.
Ibid. s. 67.

(2) If the justices of the peace before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise, they may adjourn the case to enable such proceedings to be taken.

67. A person who is the owner, agent, or manager of any mine, or a miner or miner's agent, or the father, son, or brother, or father-in-law, son-in-law, or brother-in-law, of such owner, agent, or manager, or of a miner or a miner's agent, or who is a director of a company being the owner of a mine, shall not sit in petty sessions or adjudicate in respect of any offence under this Act.

Owner of mine, &c., not to act as justice, &c., in proceedings under this Act.
Ibid. s. 68.

68. Where a fine is imposed under this Act for neglecting to send a notice of any explosion or accident, or for any offence against this Act which has occasioned loss of life or personal injury, the Minister may, if he thinks fit, direct such fine to be paid to or distributed among

Application of fines.
Ibid. s. 69.

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among the persons injured, and the relatives of any persons whose death may have been occasioned by the explosion, accident, or offence, or among some of them: Provided that—

- (a) such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence;
- (b) the fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence.

Save as aforesaid all fines recovered under this Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund.

DIVISION 2.—*Miscellaneous.*

References to repealed enactment.
60 Vic. No. 12, s. 76.

69. Any document referring to the Act thirty-ninth Victoria number thirty-one, or to any Act repealed by this Act, or to any enactment of any such Act shall be construed to refer to this Act, and to the corresponding enactments thereof.

Decision of question whether a mine is under this Act.
Ibid. s. 70.

70. If any question arises, otherwise than in legal proceedings, whether a mine is a mine to which this Act applies, the question shall be referred to the Minister, whose decision thereon shall be final.

Powers of Minister as to making and revoking orders.
Ibid. s. 71.

71. Any order of or exemption granted by the Minister under this Act may be made, and from time to time revoked or altered by the Minister, either unconditionally or subject to such conditions as he may see fit, and shall be signed by the Minister or Under Secretary for Mines.

Entry on adjoining mine, &c., to ascertain whether owner, &c., is encroaching.
Ibid. s. 73.

72. (1) Upon the affidavit of any person taken before any justice of the peace or commissioner of the Supreme Court for taking affidavits claiming to be legally or equitably interested in any mine or in any land adjoining or near to any other mine, that the owner of such last-mentioned mine is, or is by the person making such affidavit, believed to be encroaching upon such first-mentioned mine or land, the Minister may, by writing under his hand, authorise an inspector, together with a mining surveyor or experienced miner, to enter upon such last-mentioned mine or land for the purpose of ascertaining whether any such encroachment has been made, and if so the extent thereof.

(2) Before granting such authority the Minister shall require the person making or lodging the affidavit to deposit such a sum of money not exceeding one hundred pounds as is necessary to cover the cost of such inspection.

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(3) The persons so authorised may thereupon enter on the mine or land described in such order and descend any shaft or enter any mine, and for such purpose use the engines and other machinery ordinarily employed for that purpose by the person whose shaft or mine is descended or entered, and make such plans and sections of the mine or land entered upon and of any drives or other works therein as are necessary for the purpose aforesaid; and the owner or agent of the mine to be entered upon shall render all necessary assistance to the person so authorised. What may be done under such authority.

(4) Every such inspector, or surveyor, or miner shall, before entering on such mine or land, make a statutory declaration that he will not, except as a witness in a court of justice, without the consent in writing of the owner of the mine or land to be entered upon, divulge or cause to be divulged to any person whomsoever any information obtained upon or by such entry save only as to whether such owner is encroaching on such first-mentioned mine or land. Prior statutory declaration required.

(5) Every person who acts contrary to such declaration, and any owner or agent who refuses such assistance as is necessary to enable the persons authorised by the Minister to descend the shaft or enter and examine the mine, shall forfeit and pay a sum not exceeding ten pounds: Penalty.

Provided always that the Minister may, out of the sum deposited as aforesaid, defray the cost of such inspection, and if such owner or agent render such assistance as is necessary for the purposes aforesaid, and if there is no encroachment, may out of such sum award to such owner compensation for any loss or expense to which he may be put by reason of such inspection.

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SCHEDULES.

60 Vic. No. 12, s. 6.

FIRST SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
60 Vic. No. 12 ...	Coal Mines Regulation Act, 1896	The whole unrepealed portion.
No. 44, 1900 ...	Coal Mines Regulation Act, 1896, Amendment Act.	The whole

SECOND SCHEDULE.

Proceedings of board for appointing examiners.

1. The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions:—

- (a) An extraordinary meeting may be held at any time on the written requisition of three members of the board addressed to the chairman.
- (b) The quorum to be fixed by the board shall consist of not less than three members.
- (c) Every question shall be decided by a majority of votes of the members present and voting on that question.
- (d) The names of the members present as well as those voting upon each question shall be recorded.
- (e) No business shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.

2. The board shall from time to time appoint some person to be chairman, and one other person to be vice-chairman.

3. If at any meeting the chairman is not present at the time appointed for holding the same, the vice-chairman shall be the chairman of the meeting; and if neither the chairman nor vice-chairman shall be present, then the members present shall choose some one of their number to be chairman of such meeting.

4. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

5. The appointment of an examiner may be made by a minute of the board, signed by the chairman.

6. The board shall keep minutes of their proceedings, which may be inspected or copied by the Minister or any person authorised by him to inspect or copy the same.

7. The minutes shall record the decision of the examiners as to the qualifications of applicants for certificates, and shall state whether an applicant has qualified for a first or a second class certificate of competency.

8. The board shall require the examination for certificates of competency to be partly by examination papers and partly by oral examination.

THIRD

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THIRD SCHEDULE.

60 Vic. No. 12, ss.
19 and 24.

Table of maximum fees to be paid in respect of certificates.

				£	s.	d.
First-class certificate.						
By an applicant for examination ... ..	...	...	...	2	0	0
For copy of certificate ... ..	...	...	...	0	5	0
Second-class certificate.						
By an applicant for examination ... ..	...	...	...	1	0	0
For copy of certificate ... ..	...	...	...	0	2	6

FOURTH SCHEDULE.

Section 27.

COAL MINES REGULATION ACT, 1902.

Form of return.

THIS form to be correctly filled up by the owner, agent, or manager, and sent to the inspector of the district, on behalf of the Minister, on or before twenty-first January every year.

PART A.

Year ending 31 December, 19 .

- Name of mine
- Situation of mine
- County
- Name of owner (company)
- Name of manager
- Name of under-manager
- Postal address

Return of persons ordinarily employed during the year.

Under ground	Boys under 16	
	Males above 16	
	Total under ground.....	
Above ground (including those employed on sidings and private branch railways and tramways, and in cleaning, washing, and coking of coal).	Boys under 14	
	Boys of 14 and under 16	
	Males above 16	
	Total above ground... ..	
Total number of persons employed under ground and above ground		

Quantity

Act No. 73, 1902.

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Quantity of mineral wrought during the year.

Mineral wrought.	Number of statute tons wrought.	Value.
Coal		
Shale-oil shale		
Shale used for other purposes ...		

The number of days in each month on which coal or shale has been drawn.

								Number of days on which coal or shale was drawn.
January...	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

day of 19 .

(Signed)

PART B.

Name of mine

Name of seam.	Mode of ventilation, with description.	Diameter and depth of downcast and upcast shafts.				Number of splits and quantity.		Airways.		Average total quantity of fresh air per minute.
		Downcast.		Upcast.		Splits.	Quantity in cubic feet per minute.	Length of splits.	Sectional area.	Cubic.
		Diameter in feet.	Depth in feet.	Diameter in feet.	Depth in feet.			Yards.	Square feet.	

By Authority; WILLIAM APPLGATE GULLICK, Government Printer, Sydney, 1902.

[1s. 9d.]

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council Chamber,
Sydney, 20th August, 1902. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

Act No. 73, 1902.

An Act to consolidate enactments relating to the regulation of Coal Mines and Collieries. [Assented to, 9th September, 1902.]

BE it enacted by the King'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:—

1. (1) This Act may be cited as the "Coal Mines Regulation Act, 1902," and is divided into Parts, as follows:—

Commencement,
short title, and
application of Act.
60 Vic. No. 12, ss.
72, 75.

PART I.—MINES REGULATION—

DIVISION 1.—*Certificated managers, under-managers, and engine-drivers*—ss. 4-15.

DIVISION 2.—*Inspection*—ss. 16-24.

DIVISION

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DIVISION 3.—*Arbitration*—s. 25.

DIVISION 4.—*Coroners*—s. 26.

DIVISION 5.—*Returns, plan, notices, and abandonment*—ss. 27-33.

DIVISION 6.—*Employment of boys and females*—ss. 34-36.

DIVISION 7.—*Wages*—ss. 37-42.

DIVISION 8.—*Single shafts*—ss. 43-45.

DIVISION 9.—*Division of mine into parts*—s. 46.

PART II.—RULES—

DIVISION 1.—*General rules*—ss. 47-49.

DIVISION 2.—*Special rules*—ss. 50-56.

DIVISION 3.—*Publication of abstract of Act and of special rules*—ss. 57, 58.

PART III.—SUPPLEMENTAL—

DIVISION 1.—*Legal proceedings*—ss. 59-68.

DIVISION 2.—*Miscellaneous*—ss. 69-72.

First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All rules, regulations, and orders made or established, or deemed to have been made or established, all notices given or posted, all abstracts posted, all documents supplied, all certificates granted, all appointments made, and every other matter or thing duly done under or by virtue of the provisions of any enactment hereby repealed and in force, current, or operative at the commencement of this Act shall be of the same force and effect in all respects as if this Act had been in force when they were so made, established, given, granted, posted, supplied, or done, and they had been made, established, given, granted, posted, supplied, or done hereunder.

Interpretation of terms.

60 Vic. No. 12, ss. 1, 74.

3. (1) In this Act, unless the context otherwise indicates or requires,—

“Agent,” when used in relation to any mine, means any person appointed as the representative of the owner in respect of any mine, or of any part thereof, and as such superior to a manager appointed in pursuance of this Act.

“Boy”

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- “Boy” means a male under the age of sixteen years.
- “Inspector,” means an inspector of collieries referred to in or appointed under this Act.
- “Mine” includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine.
- “Owner,” when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine, subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability.
- “Plan” includes a correct copy or tracing of any original plan.
- “Shaft” includes pit.
- “The Minister” means the Secretary for Mines.
- (2) This Act shall apply to mines of coal and mines of shale.

 PART I.

MINES REGULATION.

 DIVISION 1.—*Certificated managers, under-managers, and engine-drivers.*

4. (1) Every mine shall be under a manager, who shall be responsible for the control, management, and direction of the mine, and the owner or agent of every such mine shall nominate himself or some other person to be the manager of such mine, and shall send written notice to the inspector of the district of the manager's name and address.

Appointment of
manager of mine.
60 Vic. No. 12, s. 2.

(2) A person shall not be qualified to be a manager of a mine unless he is for the time being registered as the holder of a first-class certificate of competency or a certificate of service as manager under this Act, or under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or any Act thereby repealed.

(3)

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(3) If any mine is worked for more than fourteen days without there being such a manager for the mine as is required by this section, the owner or agent of the mine shall be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding five pounds for every day during which the mine is so worked; provided that—

- (a) the owner or agent of the mine shall not be liable to any such fine if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention of this section;
- (b) if for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of the mine may appoint any competent person not holding a certificate under this Act to be manager, for a period not exceeding two months or such longer period as may elapse before such person has an opportunity in the district wherein the mine is situate of obtaining by examination a certificate under this Act, and shall send to the inspector of the district a written notice of the manager's name and address, and of the reason for his appointment.

(4) In the case of a mine in which not more than twenty persons are employed, it shall be sufficient for the manager to hold a permit from an inspector; such permit shall remain in force for twelve months, but may be renewed at the option of the inspector.

5. (1) In every mine required by this Act to be under the control of a certificated manager, daily personal supervision shall be exercised either by the manager or by an under-manager, nominated in writing by the owner or agent of the mine.

(2) Every under-manager so nominated must hold either a first-class or second-class certificate under this Act, or under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or any Act thereby repealed, or a certificate of service under section eight of this Act, or under any of the said Imperial Acts, and shall, in the absence of the manager, have the same responsibility and be subject to the same liabilities as the manager under this Act; but the nomination of an under-manager shall not affect the personal responsibility of the manager under this Act.

(3) A contractor for getting mineral in any mine, or person employed by such a contractor, is not eligible for the post of manager or under-manager of that mine under this Act.

6. (1) There shall be two descriptions of certificates of competency under this Act—(1) first-class certificates, that is to say, certificates of fitness to be manager; and (2) second-class certificates, that

Daily supervision
of mine by manager
or under-manager.
60 Vic. No. 12,
ss. 3, 4.

Disqualifications for
post of manager or
under-manager.

Certificates of
competency to
managers and
under-managers.
Ibid. ss. 5, 6.

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that is to say, certificates of fitness to be under-manager; but no person shall be entitled to a certificate of competency under this Act unless he has had practical experience in a mine for at least five years.

(2) For the purpose of ascertaining the persons to receive certificates of competency for the purposes of this Act, examiners shall be appointed by a board consisting of—

Constitution of board for appointing examiners.

- (a) three persons being owners or agents of mines in New South Wales;
- (b) three persons employed or who have been employed in or about any mine in New South Wales not being owners, agents, or managers of a mine; and
- (c) three persons practising as mining engineers or managers of mines in New South Wales; and
- (d) one inspector under this Act.

(3) The members of the board shall be appointed and may be removed by the Minister, and shall hold office during his pleasure.

(4) The proceedings of the board shall be in accordance with the rules contained in the Second Schedule to this Act.

Proceedings and powers of board for appointing examiners.

(5) The board shall from time to time appoint examiners, not being members of the board except with the consent of the Minister, to conduct the examination of applicants for certificates of competency under this Act, and may make, alter, and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in New South Wales, and that the examination and qualifications of applicants for second-class certificates shall be suitable for practical working miners.

Second Schedule.

(6) The board shall make to the Minister a report of their proceedings, and of such other matters as the Minister may require.

7. The Minister may make, alter, and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act, the number and remuneration of the examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in the Third Schedule to this Act. Every such rule shall be observed by the board appointed under this Act.

Rules by Minister as to examinations. 60 Vic. No. 12, s. 7.

Third Schedule.

8. (1) A certificate of service shall be granted by the Minister to every person who satisfies him either that before the first day of October, one thousand eight hundred and ninety-six, he was acting, and has since that date acted, or that he has at any time within five years before the said date, for a period of not less than twelve months, acted in the capacity of an inspector or of a manager of a mine or such part of a mine as can under this Act be made a separate mine for the purposes of this Act.

Grant of certificates of service to existing managers.

Ibid. s. 8.

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Grant of certificates of service in case of certain under-managers.

(2) A certificate of service shall be granted by the Minister to every person who satisfies him either that before the said date he was exercising, and has since that date exercised, or that he has at any time within five years before the said date, for a period of not less than twelve months, exercised functions substantially corresponding to those of an under-manager in a mine.

Third Schedule.

(3) Every such certificate of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered, and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Minister may direct, not exceeding that mentioned in the Third Schedule to this Act.

(4) A certificate of service granted under this section to an inspector or a manager shall have the same effect for the purposes of this Act as a first-class certificate of competency granted under this Act; and a certificate of service granted under this section to an under-manager shall have the same effect for the purposes of this Act as a second-class certificate of competency granted under this Act.

(5) Before granting a certificate of service to a manager or under-manager the Minister shall require the applicant to produce satisfactory evidence of his sobriety and general good conduct.

(6) No certificate of service shall be granted in terms of this section unless it be proved by statutory declaration that during the twelve months aforesaid there has been an average of not less than thirty miners employed below ground under the control and supervision of the applicant for the said certificate.

(7) A certificate of competency or of service granted under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or under any Act repealed thereby, or any other certificate of competency or service approved by the examiners, shall be equivalent in all respects to a similar certificate granted under this Act.

Grants of certificates to applicants on passing examination. 60 Vic. No. 12, s. 9.

9. (1) The Minister shall deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct, such a certificate of competency as the case requires. The certificate shall be in such form as the Minister directs.

Register of certificates.

(2) A register of the holders of certificates of competency or service under this Act and under any of the Imperial Acts aforesaid within the State shall be kept by such person and in such manner as the Minister directs.

Coal Mines Regulation.

10. If at any time representation is made to the Minister by an inspector or otherwise that any manager or under-manager holding a certificate under this Act or under any Imperial Act is by reason of incompetency or gross negligence, unfit to discharge his duties, or has been convicted of an offence against this Act, the Minister may cause inquiry to be made into the conduct of the manager or under-manager, and with respect to every such inquiry the following provisions shall have effect—

Inquiry into competency of manager or under-manager, and cancellation of certificate in case of unfitness.
60 Vic. No. 12, s. 10.

- (a) the inquiry shall be public, and shall be held at such place as the Minister may appoint by such District Court Judge, police magistrate, or stipendiary magistrate, as may be directed by the Minister, and either alone or with the assistance of any assessor or assessors named by the Minister;
- (b) the Minister shall, before the commencement of the inquiry, furnish to the manager or under-manager a statement of the case on which the inquiry is instituted;
- (c) some person appointed by the Minister shall undertake the management of the case;
- (d) the manager or under-manager may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case;
- (e) the person or persons appointed to hold the inquiry, in this section and in section eleven referred to as the court, shall, on the conclusion of the inquiry, send to the Minister a report containing a full statement of the case, and the opinion of the court thereon, and such report of or extracts from the evidence as the court thinks fit;
- (f) the court may cancel or suspend the certificate of the manager or under-manager if it finds that he is by reason of incompetency or gross negligence, or of his having been convicted of any offence against this Act, unfit to discharge his duty;
- (g) the court may require a manager or under-manager to deliver up his certificate, and if any manager or under-manager fails without sufficient cause to the satisfaction of the court to comply with such requisition, he shall be liable to a fine not exceeding one hundred pounds. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore, cancel, or suspend the certificate according to its judgment on the case;
- (h) the court shall have for the purpose of the inquiry, all the powers of a Court of Petty Sessions, and all the powers of an inspector under this Act;
- (i) the court may also, by summons signed by the court, require the attendance of all such persons as it thinks fit to summon

and

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and examine for the purpose of the inquiry; and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court in its Common Law jurisdiction; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Prothonotary, who, on request signed by the court, shall ascertain and certify the proper amount of such expenses.

Costs and expenses of inquiry.
60 Vic. No. 12, s. 11.

11. (1) The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any stipendiary or police magistrate or any two justices of the peace in petty sessions, as if such costs and expenses were a fine imposed by that Court of Petty Sessions.

(2) The Minister may pay to the person or persons constituting the court, including any assessors, such remuneration as he may appoint.

(3) Any costs and expenses ordered by the court to be paid by the Minister, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament.

Record of cancellation of certificate; restoration in certain cases.

Ibid. s. 12.

12. (1) Where a certificate of a manager or under-manager is cancelled or suspended in pursuance of this Act, the Minister shall cause the cancellation or suspension to be recorded in the register of holders of certificates.

(2) The Minister may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act, and cause the renewal or restoration to be recorded in the register aforesaid.

Copy of certificate in case of loss.

Ibid. s. 13.

Third Schedule.

13. Whenever any person proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act or under any Imperial Act the Minister shall, on payment of such fee, if any, as he directs, but not exceeding the fee specified in the Third Schedule to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register, and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate.

Expenses in relation to certificates and application of fees.

Ibid. s. 14.

14. (1) All expenses incurred by the Minister in carrying into effect the provisions of this Act with respect to certificates of competency and service shall be defrayed out of moneys provided by Parliament.

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(2) All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the Treasury as the Treasurer directs, and be carried to the Consolidated Revenue Fund.

15. Every person who commits any of the following offences, that is to say—

- (1) forges, or counterfeits, or knowingly makes any false statement in any certificate of competency, or of service granted under this Act or the Imperial Act fifty and fifty-one Victoria chapter fifty-eight, or any Act repealed thereby, or any official copy of any such certificate; or
- (2) knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement; or
- (3) for the purpose of obtaining for himself or any other person employment as a certificated manager or under-manager, or the grant, renewal, or restoration of any certificate under this Act or under any of the said Imperial Acts, or a copy thereof, either—
 - (a) makes or gives any declaration, representation, statement, or evidence which is false in any particular; or
 - (b) knowingly utters, produces, or makes use of any such declaration, representation, statement, or evidence, or any document containing the same,

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for a term not exceeding two years, with or without hard labour.

DIVISION 2.—*Inspection.*

16. The persons who, on the first day of October, one thousand eight hundred and ninety-six, were acting as inspectors under the Act thirty-ninth Victoria number thirty-one, and are still continuing to act as such under the Act hereby repealed, shall continue to act in the same manner, and generally to be in the same position, as if they had been respectively appointed under this Act.

17. (1) The Minister may appoint duly qualified persons to be inspectors (under whatever title he may fix) of mines, and assign them their duties, and may award them such salaries as he thinks fit or Parliament approves, and may remove any such inspector.

(2) Notice of the appointment of every such inspector shall be published in the Gazette.

(3) Every such inspector is referred to in this Act as an inspector, and the inspector of a district means the inspector who is for the time being assigned to the district or portion of New South Wales with reference to which the term is used.

(4)

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Inspectors to hold certificates.

(4) Every inspector under this Act, shall hold a first-class certificate of competency or service as hereinbefore provided in regard to managers, but for the purposes of this Act service as an inspector of collieries will be equivalent to service as manager of a mine.

Disqualification of persons as inspectors. 60 Vic. No. 12, s. 18.

18. Any person who practises or acts as or is a partner of any person who practises or acts as a land agent or mining engineer, or as a manager, viewer, agent, or valuer of mines, or arbitrator in any difference arising between owners, agents, or managers of mines, or is otherwise employed in or about any mine, or is a miner's agent or a mine-owner (whether the mine is one to which this Act applies or not) shall not act as an inspector of mines under this Act, and no inspector shall be a partner or have any interest direct or indirect in any mine in the district under his charge.

Powers of inspectors. *Ibid.* s. 19.

19. (1) An inspector under this Act shall have power to do all or any of the following things, namely—

- (a) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine ;
- (b) to enter, inspect, and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine ;
- (c) to examine into and make inquiry respecting the state and condition of any mine or part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto, or the care and treatment of the horses and other animals used in the mine ;
- (d) to exercise such other powers as may be necessary for carrying this Act into effect.

(2) Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner, agent, and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination, or inquiry under this Act, in relation to the mine, shall be guilty of an offence against this Act.

Notice by inspector of causes of danger not expressly provided against. *Ibid.* s. 20

20. (1) If in any respect (which is not provided against by any express provision of this Act or by any special rule) any inspector finds any mine or any part thereof, or any matter, thing, or practice in or connected with any such mine, or with the control, management, or direction thereof by the manager to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the owner, agent, or manager
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of the mine, and shall state in the notice the particulars in which he considers the mine or any part thereof, or any matter, thing, or practice to be dangerous or defective, and require the same to be remedied, and shall, unless the same be forthwith remedied, report the same to the Minister.

(2) If the owner, agent, or manager of the mine objects to remedy the matter complained of in the notice he may, within ten days after the receipt of the notice, send his objection in writing, stating the grounds thereof to the Minister, and thereupon the matter shall be determined by arbitration in manner provided by this Act, and the date of the receipt of the objection shall be deemed to be the date of the reference.

(3) If the owner, agent, or manager fails, when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or when there has been an arbitration to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of the offence:

Provided that the court, if satisfied that the owner, agent, or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4) No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section.

21. Every inspector of a district under this Act shall make an annual report of his proceedings during the preceding year to the Minister, which report, when embodied in the annual report of the Department of Mines, shall be laid before both Houses of Parliament. Annual reports of inspectors. 60 Vic. No. 12, s. 21.

22. Where in any mine an explosion or accident has caused loss of life or personal injury to any person, the Minister may at any time direct an inspector to make a special report with respect to the explosion or accident. Special reports of inspectors. Ibid. s. 22.

23. Where it appears to the Minister that a formal investigation of any explosion or accident and of its causes and circumstances is expedient, the Minister may direct such investigation to be held, and with respect to any such investigation the following provisions shall have effect— Formal investigation when directed by the Minister. Ibid. s. 23.

- (1) The Minister may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation. (2)

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- (2) The person or persons so appointed (hereinafter called the court) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and enabling the court to make the report in this section mentioned.
- (3) The court shall have for the purpose of the investigation all the powers of a Court of Petty Sessions when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers, namely—
 - (a) to enter and inspect any place or building, the entry or inspection whereof appears to the court requisite for the said purpose ;
 - (b) by summons signed by the court, to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make ;
 - (c) to require the production of all books, papers, plans, and documents which it considers important for the said purpose ;
 - (d) to require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.
- (4) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before the Supreme Court in its Common Law jurisdiction ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Prothonotary, who, on request signed by the court, shall ascertain and certify the proper amount of the expenses.
- (5) The court holding an investigation under this section shall make a report to the Minister, stating the causes of the explosion or accident and its circumstances, and adding any observations which the court thinks right to make.
- (6) All expenses incurred in and about an investigation under this section (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 the Act.
- (7) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, 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 section, or prevents or impedes the court
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in the execution of its duty, shall for every such offence be liable to a fine not exceeding ten pounds, and in the case of a failure to comply with a requisition for making any return or producing any document shall be liable to a fine not exceeding ten pounds for every day that such failure continues.

24. The Minister may cause any special report of an inspector or any report of a court, under this Part of this Act, to be made public at such time and in such manner as he may think fit.

Publication of reports.
60 Vic. No. 12, s. 24.

DIVISION 3.—*Arbitration.*

25. With respect to arbitrations under this Act, the following provisions shall have effect, and except where they are inconsistent, with the provisions of this Act the provisions of the Arbitration Act, 1902, shall apply to arbitrations under this Act—

Provisions as to arbitrations.
Ibid. s. 25.

- (a) the parties to the arbitration are in this section deemed to be the owner, agent, or manager of the mine on the one hand, and the inspector of mines (on behalf of the Minister) on the other;
- (b) each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator;
- (c) every person who is appointed an arbitrator under this section shall be a practical mining engineer or a person accustomed to the working of mines, and no person shall act as arbitrator or umpire, under this Act, who is employed in, or in the management of, or is interested in the mine to which the arbitration relates;
- (d) the appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party;
- (e) the death, removal, or other change in any of the parties to the arbitration shall not affect the proceedings under this section;
- (f) if within the said fourteen days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final;
- (g) if before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days refuses or neglects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place, and if he fails to do so within seven days after

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after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final ;

- (h) in either of the foregoing cases where an arbitrator is empowered to act singly on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred ;
- (i) if the arbitrators fail to make the award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned ;
- (j) the arbitrators, before they enter on the matter referred to them, shall appoint, by writing under their hands, an umpire to decide on points on which they may differ ;
- (k) if the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place ;
- (l) if the arbitrators refuse or fail, or for seven days after the request of either party neglect to appoint an umpire, then, on the application of either party, an umpire shall be appointed by the Minister, and such umpire shall be a District Court Judge or a Chairman of Quarter Sessions within the jurisdiction of which the mine or any shaft of the mine is situate ;
- (m) the decision of every umpire on the matters referred to him shall be final ;
- (n) if a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place ;
- (o) arrangements shall, wherever practicable, be made for the matter in difference being heard at the same time before the arbitrators and the umpire ;
- (p) the arbitrators and the umpire, or any of them, may examine the parties and their witnesses on oath, and may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult ;
- (q) the payment (if any) to be made to any arbitrator or umpire for his services shall be fixed by the Minister, and, together with

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with the costs of the arbitration and award, shall be paid by the parties, or one of them, according as the award directs. Such costs may be taxed by the Prothonotary, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount (if any) payable by the Minister shall be paid as part of the expenses of inspectors under this Act. The amount (if any) payable by the owner, agent, or manager may, in the event of non-payment, be recovered in the same manner as fines under this Act.

DIVISION 4.—*Coroners.*

26. (1) With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in or about mines, the following provisions shall have effect—

Provisions as to coroners' inquests on deaths from accident in mines.

60 Vic. No. 12, s. 26.

- (a) where a coroner holds an inquest on the body of any person whose death may have been caused by any explosion or accident, of which notice is required by this Act to be given to the inspector of the district, the coroner shall adjourn the inquest, unless an inspector, or some person on behalf of the Minister, is present to watch the proceedings;
- (b) the coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest;
- (c) the coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof;
- (d) if an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest at such time as to reach the inspector not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section if the majority of the jury think it unnecessary so to adjourn;
- (e) an inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner;
- (f) where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or defect;
- (g) any person having a personal interest in, or employed in, or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury impannelled

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impannelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury;

(h) any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held, and the owner, agent, or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent.

(2) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

DIVISION 5.—*Returns, plan, notices, and abandonment.*

Returns by owner,
agent, or manager of
mine.
60 Vic. No. 12, s. 27.

27. (1) On or before the twenty-first day of January in every year the owner, agent, or manager of every mine shall send to the inspector of the district on behalf of the Minister a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the particulars contained in the form in the Fourth Schedule to this Act, or in such other form as may be prescribed in lieu of that form by the Minister: Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B of the said form, unless or until the Minister otherwise prescribes.

(2) Forms for the purpose of the returns required by this section shall on application be furnished by the inspector on behalf of the Minister.

(3) The Minister may publish the aggregate results of the returns made under this section with respect to the whole of New South Wales, or any particular inspector's district, or any large portion of an inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought; but the portion of any individual return relating to the quantity of mineral gotten or wrought shall not be published without the consent of the person making the return, or of the owner of the mine to which it relates; and no person except an inspector, or the Minister, or the Under Secretary for Mines shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

(4) Every owner, agent, or manager of a mine who fails to comply with this section or makes any return which is to his knowledge false in any particular shall be guilty of an offence against this Act.

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28. (1) The owner, agent, or manager of every mine shall keep in the office at the mine an accurate plan of the workings of the mine, showing the workings up to a date not more than three months previously, and the general direction and rate of dip of the strata, together with the section of the strata sunk through, or, if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam, and in addition to the above mentioned plan there shall also be provided a tracing of a surface plan on the same scale showing thereon all streets, roads, buildings, creeks, rivers, bays, swamps, navigable waters, and limits of any tidal waters within the said boundary.

Plan of mine to be kept at office.
60 Vic. No. 12, s. 28.

(2) The owner, agent, or manager of the mine shall, on request at any time of an inspector under this Act, produce to him at the office at the mine such plan and section, and shall also on the like request mark on such plan and section the then state of the workings of the mine; and the inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof respectively.

(3) If the owner, agent, or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid, or wilfully withholds any portion thereof, or wilfully refuses on request to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment, imperfection, or inaccuracy) be guilty of an offence against this Act; and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner, agent, or manager to cause an accurate plan and section, showing the particulars hereinbefore required, to be made within a reasonable time at the expense of the owner of the mine. Every such plan must be on a scale of not less than two chains to the inch, or on the same scale as the plan for the time being in use at the mine.

(4) If the owner, agent, or manager fails within twenty days after the requisition of the inspector, or within such further time as is allowed by the Minister, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

(5) Every copy as aforesaid shall be deposited in the principal office of the Department of Mines and Agriculture, and, except as evidence in a court, no copy thereof shall be furnished nor information in relation thereto given; but if, on the complaint of any owner or lessee of the surface, or the accredited officer of any municipality, that his or their rights or interests may be affected by the

working

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working of the mine, the Minister thinks fit so to direct, the inspector shall furnish a tracing of such part of the workings as are situated under the surface in respect of which complaint has been made.

(6) If any officer furnishes any copy, tracing, or information, or allows any person to inspect any such plan or tracing, unless directed by the Minister as aforesaid, he shall be guilty of an offence against this Act.

Notice to be given of accidents in mines.
60 Vic. No. 12, s. 29.

29. (1) Where in or about any mine, whether above or below ground—

- (a) loss of life or any personal injury whatever to any person employed in or about the mine occurs by reason of any explosion of gas or of any explosive or of any steam-boiler; or
- (b) loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever,

the owner, agent, or manager of the mine shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident, and of the loss of life or personal injury occasioned thereby to the inspector of the district, on behalf of the Minister, and shall specify in the notice the character of the explosion or accident, and the number of persons killed or injured respectively.

(2) Where in or about any mine, whether above or below ground, loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred shall be left as it was immediately after the explosion or accident until the expiration of at least three days after the sending of such notice as aforesaid of such explosion or accident or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger, or would impede the working of the mine.

(3) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the district, on behalf of the Minister, within twenty-four hours after such death comes to the knowledge of the owner, agent, or manager.

(4) Every owner, agent, or manager who fails to act in compliance with this section shall be guilty of an offence against this Act.

Notice to be given of opening and abandonment of mine.

Ibid. s. 30.

30. In any of the following cases, namely—

- (a) where any working is commenced for the purpose of opening a new shaft for or a seam of any mine;
- (b) where a shaft or seam of any mine is abandoned, or the working thereof discontinued;
- (c) where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or
- (d)

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- (d) where any change occurs in the name of any mine, or in the name of the owner, agent, or manager of any mine to which this Act applies, or in the principal officers of any incorporated company which is the owner of a mine,

the owner, agent, or manager of the mine shall give notice thereof to the inspector of the district within one month after the commencement, abandonment, discontinuance, recommencement, or change; and if such notice is not given, the owner, agent, or manager shall be guilty of an offence against this Act.

31. (1) Where any mine is abandoned, or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof and every other person interested in the minerals of the mine shall cause the top of every shaft and every side entrance from the surface to be and to be kept securely fenced for the prevention of accidents: Provided that—

Fencing in case of abandoned mine.
60 Vic. No. 12, s. 31.

- (a) subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs, charges, and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect;

- (b) nothing in this section shall exempt any person from any liability under any other Act or otherwise.

(2) If any person fails to act in conformity with this section he shall be guilty of an offence against this Act.

(3) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages, penalty, or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

(4) If any occupier of land or other person wilfully obstructs the owner of a mine or other person interested as aforesaid in doing any such acts he shall be guilty of an offence against this Act.

(5) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or unenclosed land, shall be deemed to be a public nuisance.

32. (1) Where any mine or seam is abandoned, the owner of the mine or seam at the time of its abandonment shall, within three months after the abandonment, send to the Minister an accurate plan showing the boundaries, the whole of the workings of the mine or seam up to the time of the abandonment, and the position of the workings with regard to the surface, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft, with

Plan of abandoned mine or seam to be sent to Minister.
Ibid. s. 32.

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a section of the seam. Every such plan must be on a scale of not less than two chains to the inch, or on the same scale as the plan used at the mine at the time of its abandonment.

(2) The plan and section shall be preserved under the care of the Minister; but no person, except as provided in section twenty-eight, other than an inspector under this Act, shall be entitled, without the consent of the owner or agent of the mine or seam, to see the plan when so sent until after the expiration of ten years from the time of the abandonment.

(3) The owner or agent aforesaid shall also, within three months of the abandonment of the mine or seam, send to the inspector of the district, on behalf of the Minister, a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this Act, the particulars required in that return; and the provisions of this Act with respect to the said annual return shall apply to the return so sent.

(4) If the owner or agent of a mine or seam fails to comply with this section he shall be guilty of an offence against this Act, and be liable to a fine not exceeding thirty pounds.

(5) A complaint or information of an offence under this section may be made or laid at any time within six months after abandonment of the mine or seam, or after service on the owner or agent aforesaid of a notice to comply with the requirements of this section, whichever last happens.

Service of notices.

60 Vic. No. 12, s. 33.

33. All notices under this Act shall be in writing, and when expressly so required, shall be in print, and all notices and documents required by this Act to be served or sent by or to an inspector may be either delivered personally, or served and sent by post by a registered letter.

DIVISION 6.—Employment of boys and females.

Boys under fourteen and females.

34. No boy under the age of fourteen years and no female shall be employed in or about a mine.

Hours of employment of boys.
Ibid. s. 34.

35. (1) No boys between the age of fourteen years and eighteen years shall be employed in or allowed to be, for the purposes of employment, in any mine below ground for more than nine hours on Monday, Tuesday, Wednesday, Thursday, Friday, and six hours on one Saturday and eight hours on the next Saturday.

Regulations as to employment of boys.

(2) For the purposes of this Act, with respect to the employment of such boys in a mine below ground, the following regulations shall have effect, that is to say—

- (a) there shall be allowed an interval of not less than twelve hours between each period of employment.
- (b) each period of employment shall be exclusive of one hour for meals.

(3)

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(3) The owner, agent, or manager of every mine shall keep in the office at the mine a register, and shall cause to be entered in that register, in such form as the Minister prescribes or sanctions, the name, age, residence, and date of first employment of all boys under the age of eighteen employed in the mine below ground, and of all such boys employed above ground in connection with the mine; and shall, on request, produce the register to any inspector under this Act, and to any officer of the Department of Public Instruction, at the mine, at all reasonable times, and shall allow any such inspector or officer to inspect and copy the same.

(4) The immediate employer of every such boy, other than the owner, agent, or manager of the mine, before he causes the boy to be below ground in any mine, shall report to the manager of the mine, or to some person appointed by that manager, that he is about to employ the boy in the mine.

36. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect to the employment of boys or females, or to the register of boys, or to reporting the intended employment of boys, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing, and, to the best of his power, enforcing the provisions of this Act, to prevent the contravention or non-compliance.

Penalty for employment of persons in contravention of Act.
60 Vic. No. 12, s. 36.

DIVISION 7.—*Wages.*

37. (1) No wages shall be paid to any person employed in or about any mine at or within any public-house, beer-shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging thereto or occupied therewith.

Prohibition of payment of wages at public-houses, etc.
Ibid. s. 37.

(2) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of this section, to prevent the contravention or non-compliance.

38. (1) Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, those persons shall be paid according to the actual weight gotten by them

Payment of persons employed in mines by weight.
Ibid. s. 38.

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them of the mineral contracted to be gotten, and the mineral gotten by them, shall be truly weighed at a place as near to the pit mouth as is reasonably practicable :

Provided that nothing in this section shall preclude the owner, agent, or manager of the mine from agreeing with the persons employed in the mine that deductions shall be made in respect of stones or substances other than the mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined in such special mode as may be agreed upon between the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner, agent, or manager, or, if any check-weigher is stationed for this purpose as hereinafter mentioned, by such person and such check-weigher, or in case of difference by a third person to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a Chairman of a Court of Quarter Sessions within the jurisdiction of which any shaft of the mine is situate.

(2) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with this section, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing, and to the best of his power, enforcing the provisions of this section to prevent the contravention or non-compliance.

(3) Nothing in this Act shall be held to authorise or give any power to any owner or manager of a mine to pay miners by the method known as the standard weight system, being the system abolished by the Act sixtieth Victoria number twelve hereby repealed.

(4) Where it is proved to the satisfaction of the Minister, in the case of any mine or class of mines employing not more than twenty persons under ground, to be expedient that the persons employed therein should, upon the joint representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this Act, such Minister may, if he think fit, by order, allow the same either without conditions or during the time and on the conditions specified in the order.

Agent may be
summoned for wages.
60 Vic. No. 12, s. 39.

39. Whenever any sum of money not exceeding fifty pounds is claimed to be due to any person on account of any kind of labour performed at any coal mine in charge of an owner or agent, any justice

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justice of the peace or clerk of petty sessions upon complaint made to him touching or concerning the non-payment of any such sum, may summon such owner or agent to appear before any two justices of the peace at the nearest petty sessions, and the justices of the peace there assembled may examine the parties and their respective witnesses touching the complaint, and may inspect any agreement or duplicate copy thereof if produced, and may make an order for the payment by such owner or agent of such sum, not exceeding fifty pounds, as appears to such justices to be lawfully due, together with all costs incurred and damage sustained by the complainant in prosecuting such claim.

40. (1) The persons who are employed in a mine, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person, in this Act referred to as "a check-weigher," at each place appointed for the weighing of the mineral, and at each place appointed for determining the deductions, in order that he may, on behalf of the persons by whom he is so stationed, take a correct account of the weight of the mineral, or determine correctly the deductions, as the case may be. He shall be authorised to require that the process of weighing shall be carried on continuously throughout the working hours during the whole time that the pit is drawing coal.

Appointment on part
of men, and removal
of check-weigher.
60 Vic. No. 12,
ss. 40, 61.

(2) A check-weigher shall have every facility afforded to him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the taring of tubs and trams where necessary, and including also the continuous weighing of the coal; and if at any time proper facilities are not afforded to a check-weigher as required by this section, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to enforce to the best of his power the requirements of this section.

(3) A check-weigher shall not be authorised in any way to impede or interrupt the working of the mine, or to interfere with the weighing, or with any of the workmen, or with the management of the mine; but shall be authorised only to fulfil the duties in the two preceding subsections mentioned, and the absence of a check-weigher from the place at which he is stationed shall not be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner, agent, or manager, unless the absent check-weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with:

Provided always that nothing in this section shall prevent a check-weigher giving to any workman an account of the mineral gotten

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gotten by him, or information with respect to the weighing or the weighing-machine, or the taring of the tubs or trams, or with respect to the deductions, or any other matter within the scope of his duties as check-weigher, so always, nevertheless, that the working of the mine be not interrupted or impeded.

(4) If the owner, agent, or manager of the mine desires the removal of a check-weigher on the ground that the check-weigher has impeded or interrupted the working of the mine, or interfered with the weighing or with any of the workmen, or with the management of the mine, or has at the mine, to the detriment of the owner, agent, or manager, done anything beyond taking such account, determining such deductions, or giving such information as aforesaid, the owner, agent, or manager may complain to the nearest court of petty sessions, who, if of opinion that the owner, agent, or manager shows sufficient prima facie ground for the removal of the check-weigher, shall call on the check-weigher to show cause against his removal.

(5) On the hearing of the case the court shall hear the parties, and if they think that at the hearing sufficient ground is shown by the owner, agent, or manager to justify the removal of the check-weigher, shall make a summary order for his removal, and the check-weigher shall thereupon be removed, but without prejudice to the stationing of another check-weigher in his place.

(6) Proceedings for the removal of a check-weigher shall be deemed to be a matter on which justices in petty sessions have authority by law to make an order, and the court may in every case make such order as to the costs of the proceedings as the court may think just.

(7) If in pursuance of any order of exemption made by the Minister the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of this Act shall apply in like manner as if the term "weighing" included measuring and gauging; and the terms relating to weighing shall be construed accordingly.

(8) If the person appointed by the owner, agent, or manager to weigh the mineral impedes or interrupts the check-weigher in the proper discharge of his duties, or improperly interferes with or alters the weighing-machine or the tare in order to prevent a correct account being taken of the weighing and taring, he shall be guilty of an offence against this Act.

Remuneration of
check-weigher.
60 Vic. No. 12, s. 41.

41. (1) Where a check-weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine and so paid his proportion of the check-weigher's wages

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wages or recompense, notwithstanding that any of the persons by whom the check-weigher was appointed may have left the mine or others have entered the same since the check-weigher's appointment, any rule of law or equity to the contrary notwithstanding.

(2) It shall be lawful for the owner or manager of any mine, where the majority of the before-mentioned persons, ascertained as aforesaid, so agree, to retain the agreed contribution of the persons so employed and paid as aforesaid for the check-weigher, and to pay and account for the same to the check-weigher.

42. (1) The Weights and Measures Act, 1898, and any Act relating to weights and measures, shall apply to all weights, balances, scales, steelyards, and weighing-machines used at any time for determining the wages payable to any person employed in the mine according to the weight of the mineral gotten by him, in like manner as it applies to weights, balances, scales, steelyards, and weighing-machines used for trade.

Inspection of weights,
&c., used in mines.
60 Vic. No. 12, s. 42.

(2) An inspector of weights and measures appointed under the said Act shall once at least in every six months inspect and examine in manner directed by the said Act the weights, balances, scales, steelyards, and weighing-machines used or in the possession of any person for use as aforesaid at any mine within his district; and shall also make such inspection and examination at any other time in any case where he has reasonable cause to believe that there is in use at the mine any false or unjust weight, balance, scale, steelyard, or weighing-machine.

(3) The inspector shall also inspect and examine the measures and gauges in use at the mines within his district; but nothing in this section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine.

(4) An inspector may, for the purposes of this section, without any authorisation from a justice of the peace, exercise at or in any mine, as respects all weights, measures, scales, balances, steelyards, and weighing-machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise, if authorised in writing by a justice of the peace, under the Weights and Measures Act, 1898, with respect to any such weights, measures, scales, balances, steelyards, and weighing-machines as therein mentioned; and all the provisions of sections twelve and thirteen of that Act, including the liability to penalties, shall apply to such inspection.

(5) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, impede or obstruct the working of the mine.

DIVISION

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DIVISION 8.—*Single shafts.*

Prohibition of single shafts.
60 Vic. No. 12, s. 43.

43. (1) The owner, agent, or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the following conditions respecting shafts or outlets are complied with, that is to say—

- (a) There must be at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine.
- (b) Such shafts or outlets must not at any point be nearer to one another than fifty yards, and there shall be between such two shafts or outlets a communication not less than four feet wide and six feet high.
- (c) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine, and such apparatus if not in actual use at the shafts or outlets shall be constantly available for use.

(2) Every owner, agent, and manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Act.

(3) The Supreme Court, whether any other proceedings have or have not been taken, may, on the application of the Attorney-General, prohibit by injunction the working of any mine in which any person is employed, or is permitted to be for the purpose of employment in contravention of this section, and may award such costs in the matter of the injunction as the Court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

(4) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner, agent, or manager of the mine not less than ten days before the application is made.

Agreements not to preclude compliance with Act.
Ibid. s. 44.

44. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine, where the same is required by this Act or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Exceptions from provisions as to shafts.
Ibid. s. 45.

45. (1) The foregoing provisions of this Act with respect to shafts or outlets shall not apply—

(a) in the case of a new mine being opened—

- (i) to any working for the purpose of making a communication between two or more shafts;
- (ii)

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- (ii) to any working for the purpose of searching for or proving minerals ;
so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet ; nor
- (b) to any proved mine, so long as it is exempted by order of the Minister, on the ground either—
- (i) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable ; or
- (ii) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam ;
and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet ; nor
- (c) to any mine—
- (i) while a shaft is being sunk or an outlet being made ; or
- (ii) one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine ;
so long as the mine is exempted by order of the Minister, and as the conditions, if any, annexed to the order of exemption are duly observed.
- (2) The provision in this Act requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifty yards shall not apply to any mine which was provided with two shafts sunk before the first day of October, one thousand eight hundred and ninety-six, but at that time separated by a distance of less than ten feet or commenced to be sunk before the said date, but separated by a distance of more than ten feet and less than fifty yards.
- (3) The foregoing provisions of this Act as to the dimensions of the communication between two shafts or outlets shall not apply to any mine or class of mines so long as the same is exempted therefrom by order of the Minister, by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions, if any, annexed to the order of exemption are duly observed.

DIVISION

*Coal Mines Regulation.*DIVISION 9.—*Division of mine into parts.*Division of mine
into parts.

60 Vic. No. 12, s. 46.

46. (1) Where two or more parts of a mine are worked separately, the owner, agent, or manager of the mine shall give notice in writing to that effect to the inspector of the district, and thereupon each such part shall, for all purposes of this Act, be deemed to be a separate mine.

(2) If the Minister is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner, agent, or manager of the mine; and the owner, agent, or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district, stating that he declines to acquiesce, and thereupon the matter shall be determined by arbitration in manner provided by this Act, and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

PART II.

RULES.

DIVISION 1.—*General rules.*

General rules.

Ibid. s. 47.

Ventilation of mines.

47. The following general rules shall be observed, so far as is reasonably practicable, in every mine—

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working-place of the shafts, levels, stables, and workings of the mine, and the travelling roads to and from those working-places shall be in a fit state for working and passing therein. The ventilation so produced shall be the supply of pure air in quantity not less than one hundred cubic feet per minute for each man, boy, and horse employed in the mine, which air in that proportion, but with as much more as the inspector shall direct, shall sweep along the airways and be forced as far as the face of and into each and every working-place where man, boy, or horse is engaged or passing, main return airways only excepted.

Every mine, except such as are worked on the long-wall system, shall be divided into districts or splits of not more than seventy men in each; and each district shall be supplied with a separate current of fresh air. The intake air shall travel free

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free from all stagnant water, stables, and old workings. In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

Rule 2. Where a fire is used for ventilation in any mine newly opened after the first day of October, one thousand eight hundred and ninety-six, the return air, unless it is so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift or airway. Ventilation by fire.

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the last-mentioned date, it shall be in such position and placed under such conditions as will tend to insure its being uninjured by an explosion. Ventilation by machinery.

Rule 4. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require, and the following provisions shall have effect:— Stations and inspections of conditions as to ventilation, &c.

(a) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner, agent, or manager for the purpose, not being a contractor for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof, and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflammable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, the condition of the ventilation, and what defects, if any, in roofs or sides, and what if any other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and, so far as the same does not consist of printed matter, shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift. (b)

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(b) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

Inspection of
machinery, &c.,
above and below
ground.

Rule 5. A competent person or competent persons, appointed by the owner, agent, or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Fencing of
entrances.

Rule 6. Every entrance to any place which is not in actual use or course of working and extension shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

Withdrawal of
workmen in case of
danger.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas, shall inspect the mine or part with a locked safety-lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be readmitted into the mine, or part so found dangerous, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Rule

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Rule 8. No lamp or light other than a locked safety-lamp shall be allowed or used,— Use of safety-lamps in certain places.

- (a) in any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or
- (b) in any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety-lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return airway.

Rule 9. Wherever safety-lamps are used, they shall be constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable. SO Construction of safety-lamps.

Rule 10. In any mine or part of a mine in which safety-lamps are required by this Act, or by the special rules made in pursuance of this Act to be used,— Examination of safety-lamps.

- (a) a competent person appointed by the owner, agent, or manager for the purpose shall, either at the surface, or at the appointed lamp station, examine every safety-lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked, and such lamps shall not be used until they have been so examined and found in safe working order and securely locked;
- (b) a safety-lamp shall not be unlocked except either at the appointed lamp station or for the purpose of firing a shot, in conformity with the provisions hereinafter contained;
- (c) a person, unless he has been appointed either for the purpose of examining safety-lamps, or for the purpose of firing shots, shall not have in his possession any contrivance for opening the lock of any safety-lamp;
- (d) a person shall not have in his possession any lucifer match or apparatus of any kind for striking a light except within a completely closed chamber attached to the fuse of the shot.

Rule 11. Where safety-lamps are required to be used, the position of the lamp stations for lighting or relighting the lamps shall not be in the return air. Lamp stations.

Rule

Coal Mines Regulation.

Use of explosives
below ground.

Rule 12. Any explosive substance shall only be used in the mine below ground, as follows—

- (a) it shall not be stored in the mine;
- (b) it shall not be taken into the mine, except in cartridges in a secure case or canister containing not more than five pounds: Provided that on the application of the owner, agent, or manager of any mine, the Minister may, by order, exempt such mine from so much of this rule as forbids taking an explosive substance into the mine except in cartridges;
- (c) a workman shall not have in use at one time in any one place more than one of such cases or canisters;
- (d) in the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel pricker, scraper, charger, tamping rod, or stemmer; nor in any mine or part of a mine in which safety-lamps are required by this Act to be used shall dry coal or coal-dust be used for tamping;
- (e) no explosive shall be forcibly pressed into a hole of insufficient size, and when a hole has been charged, the explosive shall not be unrammed; and no hole shall be bored for a charge at a distance of less than six inches from any hole where the charge has missed fire: Provided that in cases where a fuse is used no person shall return to a place where such charge has missed fire until a period of eight hours has elapsed from the lighting of the fuse attached to such charge;
- (f) in any place in which the use of a locked safety-lamp is for the time being required by or in pursuance of this Act, or which is dry and dusty, no shot shall be fired except by, or under the direction of, a competent person appointed by the owner, agent, or manager of the mine; and such person shall not fire the shot or allow it to be fired until he has examined both the place itself where the shot is to be fired and all contiguous accessible places of the same seam within a radius of twenty yards, and has found such place safe for firing;
- (g) if in any mine, at either of the inspections under Rule four recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district in which the shot is to be fired, the shot shall not be fired—
 - (i) unless a competent person, appointed as aforesaid, has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place sufficient gas issuing or accumulated to render it unsafe to fire the shot; or
 - (ii)

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- (ii) unless the explosive employed in firing the shot is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas ;
- (h) if the place where a shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say—
 - (i) unless the place of firing and all contiguous accessible places within a radius of twenty yards therefrom are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides ; or
 - (ii) in the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust ;
- (i) if such dry and dusty place is part of a main haulage road, or is a place contiguous thereto, and showing dust adhering to the roof and sides, no shot shall be fired there unless—
 - (i) both the conditions mentioned in sub-rule (h) have been observed ; or
 - (ii) unless such one of the conditions mentioned in sub-rule (h) as may be applicable to the particular place has been observed, and moreover all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam-boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine ;
- (k) in this Act “ ventilating district ” means such part of a seam as has an independent intake commencing from a main intake air-course, and an independent return air-way terminating at a main return air-course ; and “ main haulage road ” means a road which has been, or for the time being is, in use for moving trams by steam or other mechanical power ;
- (l) where a seam of a mine is not divided into separate ventilating districts the provisions in this Act relating to ventilating districts shall be read as though the word “ seam ” were substituted for the words “ ventilating district.”

Rule

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Water and
bore-holes.

Rule 13. Where any place is likely to contain a dangerous accumulation of water, the working approaching that place shall not at any point within forty yards of that place exceed eight feet in width, and there shall be constantly kept at a sufficient distance, not being less than five yards in advance, at least one bore-hole, near the centre of the working, and sufficient flank bore-holes on each side.

Signalling and
man-holes for
travelling planes
worked by
machinery.

Rule 14. Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass, or gin, shall be provided, if exceeding thirty yards in length, with some proper means of communicating distinct and definite signals between the stopping-places and the ends of the plane, and shall be provided in every case with sufficient man-holes or places of refuge, at intervals of not more than twenty yards, and of not more than six feet high, three feet wide, and four feet deep, or if there is not room for a person to stand between the side of a tub and the side of the plane, then, unless the tubs are moved by an endless chain or rope, at intervals of not more than ten yards.

Man-holes for other
travelling roads.

Rule 15. Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient man-holes or places of refuge, and every such place of refuge shall be of sufficient length, and at least three feet in width between the waggons running on the road and the side of such road. There shall be at least two proper travelling ways in every steam-engine room and boiler gallery.

Man-holes to be
kept clear.

Rule 16. Every man-hole and every place of refuge shall be constantly kept clear, and no person shall place anything in any such man-hole or place of refuge.

Dimensions of
travelling roads.

Rule 17. Every travelling road on which a horse or other draught animal is used underground shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing against the roof or timbering.

Fencing of shafts.

Rule 18. The top of every shaft which for the time being is out of use, or used only as an air-shaft, shall be and shall be kept securely fenced.

Trolley over pit
mouth.

Rule 19. Every shaft in course of sinking shall be provided with a trolley to run over the pit's mouth and receive the load when brought to the surface. Such trolley to be large enough to cover the opening at the pit top.

Fencing of entrances
to shafts.

Rule 20. The top and all entrances between the top and bottom, including the sump, if any, of every working, ventilating, or pumping shaft shall be properly fenced, but this shall not be taken

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taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used.

Rule 21. Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure. Every shaft in course of sinking shall be kept clear of all noxious gases by a fan or some other appliance. Securing of shafts.
Sinking pit to be cleared of gas.

Rule 22. The roof and sides of every travelling road and working-place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working-place which is not made so secure. Securing of roofs and sides.

Rule 23. Where the timbering of the working-places is done by the workmen employed therein, suitable timber shall be provided at the working-place, gate end, pass-by, siding, or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where they are required shall not exceed six feet or such less distance as may be ordered by the owner, agent, or manager. Timbering.

Rule 24. Where there is a downcast and furnace shaft to the same seam, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, on giving reasonable notice, have the option of using the downcast shaft. Option of using downcast shaft.

Rule 25. In any mine which is usually entered by means of machinery a competent male person not less than twenty-two years of age shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for that purpose during the whole time that any person is below ground in the mine. Attendance of engineman.

Where any shaft, plane, or level is used for the purpose of communication from one part to another part of a mine, and persons are taken up or down or along such shaft, plane, or level by means of any engine, windlass, or gin driven or worked by steam or any mechanical power, or by an animal or by manual labour, the person in charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith, must be a competent male person not less than eighteen years of age.

Where the machinery is worked by an animal, the person under whose direction the driver of the animal acts shall for the purpose of this rule be deemed to be the person in charge of the machinery.

Rule

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Means of signalling
for working shafts.

Rule 26. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector of the district, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft, and to every entrance for the time being in use between the surface and the bottom of the shaft.

Overwinding.

Rule 27. If in any mine the winding apparatus is not provided with some automatic contrivance to prevent overwinding, then the cage when men are being raised shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules.

Cover overhead.

Rule 28. A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the inspector of the district.

Chains.

Rule 29. A single-linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to the cage or tub.

Prevention of rope
slipping on drum.

Rule 30. There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping.

Brake and indicator.

Rule 31. There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate brake or brakes and a proper indicator, in addition to any mark on the rope, showing to the person who works the machine the position of the cage or tub in the shaft. If the drum is not on the crank shaft there shall be an adequate brake on the drum shaft.

Fencing machinery.

Rule 32. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and shall be kept securely fenced.

Safety-valves and
gauges for boilers.

Rule 33. Each steam-boiler, whether separate or one of a range, shall have attached to it a proper safety-valve and also a proper steam-gauge and water-gauge to show respectively the pressure of steam and the height of water in each boiler.

Barometer, &c.

Rule 34. A barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

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- Rule 35.* Where persons are employed underground, ambulances Stretchers. or stretchers, with splints and bandages, shall be kept at the mine ready for immediate use in case of accident.
- Rule 36.* No person shall wilfully damage, or without proper Wilful damage. authority remove or render useless, any fence, fencing, man-hole, place of refuge, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act.
- Rule 37.* Every person shall observe such directions with respect Observance of directions. to working as may be given to him with a view to comply with this Act or the special rules in force in the mine.
- Rule 38.* The books mentioned in these rules shall be provided Books and copies thereof. by the owner, agent, or manager, and the books, or a correct copy thereof, shall be kept at the office of the mine, and any inspector under this Act and any person employed in the mine may, at all reasonable times, inspect and take copies of and extracts from any such books; but nothing in these rules shall be construed to impose the obligation of keeping any such book or a copy thereof for more than twelve months after the book had ceased to be used for entries therein under this Act. Any report by this Act required to be recorded in a book may be partly in print, including lithograph, and partly in writing.
- Rule 39.* The persons employed in a mine may from time to time Periodical inspection on behalf of workmen. appoint two of their number or any two persons not being mining engineers who are practical working miners to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return air-ways, ventilating apparatus, old workings and machinery. Every facility shall be afforded by the owner, agent, and manager, and all persons in the mine for the purpose of inspection, and the persons appointed shall forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept in the mine for the purpose, and shall be signed by the persons who made the inspection, and if the report states the existence or apprehended existence of any danger, the owner, agent, or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district.
- Rule 40.* No person other than a person employed or working on Person not to be employed in coal-getting without experience. the fifth day of November, one thousand nine hundred as a No. 44, 1900, s. 3. coal-getter

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coal-getter or shale-getter shall work or be allowed to work as a coal-getter or a shale-getter in the face of the workings of a mine, unless—

- (a) he has been employed or has worked for two years in or about the face of the workings of a mine as coal-getter or shale-getter; or
- (b) he works in company with a person who has been employed or has worked for two years in or about the face of the workings of a mine as a coal-getter or a shale-getter.

Penalty for interference with office of check-inspector or check-weigher.

Rule 41. If the owner, agent, or manager of any mine or any persons employed by or acting under the instructions of any such owner, agent, or manager interferes with the appointment of a check-inspector or check-weigher, or refuses to afford proper facilities for the holding of any meeting for the purpose of making such appointment, or attempts, whether by threats, bribes, promises, notice of dismissal or otherwise howsoever, to exercise improper influence in respect of such appointment, or to induce the persons entitled to appoint a check-inspector or a check-weigher or any of them not to reappoint any particular person, or to vote for or against any particular person, in the appointment of a check-inspector or check-weigher, such owner, agent, or manager shall be guilty of any offence against this Act.

No. 44, 1900, s. 5.

Rule 42. Every sinking shaft exceeding one hundred and fifty feet in depth shall be provided with guides and guide attachments applied in such manner as to prevent the bucket or other appliance from swinging while being lowered or raised in such shaft, and such guides and guide attachments shall be maintained from the surface to a distance of not more than seventy-five feet from the bottom of such shaft until its sinking has been completed.

Ibid. s. 3.

48. Where it is reported to an inspector, and such inspector is satisfied after due inquiry, that any person is working in any mine in contravention of the provisions of rule forty of section forty-seven, he may, after giving notice to the owner of the mine, or his agent or manager, order such person to cease working, and such person shall thereupon cease working as aforesaid.

Penalty on non-compliance with rules.

60 Vic. No. 12, s. 48.

49. Every person who contravenes or does not comply with any of the general rules in this Act shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

DIVISION

*Coal Mines Regulation.*DIVISION 2.—*Special rules.*

50. (1) There shall be established in every mine such rules, referred to in this Act as special rules, for the conduct and guidance of the persons acting in the management of such mine or employed in or about the mine as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety, convenience, and proper discipline of the persons employed in or about the mine.

Special rules for every mine.
60 Vic. No. 12, s. 49.

(2) Such special rules, when established, shall be signed in duplicate by the inspector who is inspector of the district at the time the rules are established, and shall be observed in and about every such mine, including any extension thereof, in the same manner as if they were enacted in this Act.

(3) If any person who is bound to observe the special rules established for any mine acts in contravention of or fails to comply with any of them, he shall be guilty of an offence against this Act, and also the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the rules and regulations for the working of the mine, so as to prevent such contravention or non-compliance.

51. (1) The owner, agent, or manager of every mine shall frame and transmit to the inspector of the district, for approval by the Minister, special rules for the mine within three months after the commencement of any working for the purpose of opening a new mine or of renewing the working of an old mine.

Establishment of new special rules.
Ibid. s. 50.

(2) The proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom, may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice, shall, during not less than two weeks before the rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules for the information of persons employed in the mine; and a certificate that the rules and notice have been so posted up shall be sent to the inspector, with two copies of the rules signed by the person sending the same.

(3) If the rules are not objected to by the Minister within forty days after their receipt by the inspector they shall be established.

52. (1) If the Minister is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine or for the safety or convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the

The Minister may object to special rules.
Ibid. s. 51.

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the inspector, object to the rules, and propose to the owner, agent, or manager, in writing, any modification in the rules, by way either of omission, alteration, substitution, or addition.

(2) If the owner, agent, or manager does not, within twenty days after the modifications proposed by the Minister are received by him, object in writing to them, the proposed special rules, with those modifications, shall be established.

(3) If the owner, agent, or manager sends his objection in writing within the said twenty days to the Minister, the matter shall be referred to arbitration under this Act, and the date of the receipt of the objection by the Minister shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

Amendment of
special rules.
60 Vic. No. 12, s. 52.

53. (1) After special rules are established under this Act in any mine, the owner, agent, or manager of the mine may propose in writing to the inspector of the district, for the approval of the Minister, any amendment of the rules or any new special rules; and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as nearly as may be, as they apply to the original rules.

(2) The Minister may propose in writing to the owner, agent, or manager of the mine any new special rules, or any amendment of the special rules; and the provisions of this Act with respect to a proposal of the Minister for modifying the special rules transmitted by the owner, agent, or manager of a mine, shall apply to all such new special rules and amendments in like manner, as nearly as may be, as they apply to the proposal.

False statements,
and neglect to
transmit special
rules.
Ibid. s. 53.

54. If the owner, agent, or manager of any mine makes any false statement with respect to the posting up of the rules and notices, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the inspector for the approval of the Minister, the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by enforcing to the best of his power the provisions of this Act, to secure the transmission of the rules.

Certified copy of
special rules to be
evidence.
Ibid. s. 54.

55. An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which, for the time being, are established under this Act in any mine, and a copy so certified shall be evidence of such special rules, and of the fact that they are duly established under this Act and have been signed by the inspector.

Special rules made
by the Governor.
Ibid. s. 55

56. The Governor may make and publish in the Gazette a set or sets of special rules, and thereafter the rules so made and published shall be deemed the special rules of every mine to which this Act applies

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applies and in respect of which no special rules shall be in force: Provided that upon special rules being established for any mine, the special rules made by the Governor as aforesaid shall cease to apply to such mine.

DIVISION 3.—*Publication of abstract of Act and of special rules.*

57. For the purpose of making known the provisions of this Act and the special rules to all persons employed in and about each mine, an abstract of this Act supplied, on the application of the owner, agent, or manager of the mine, by the inspector of the district on behalf of the Minister, and a correct copy of all the special rules shall be published, as follows—

Publication of
abstract of Act and
copy of special rules.
60 Vic. No. 12, s. 57.

- (a) the owner, agent, or manager of the mine shall cause the abstract and copy of the rules, with the name of the mine and the name and address of the inspector of the district, and the name of the owner, or agent, and of the manager, appended thereto, to be posted up, in legible characters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch;
- (b) the owner, agent, or manager shall supply a printed copy of the abstract, and the special rules, gratis to each person employed in or about the mine who applies for a copy at the office at which the persons immediately employed by the owner, agent, or manager are paid;
- (c) every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and the employed.

In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act; but the owner, agent, or manager of such mine shall not be deemed guilty if he proves that he had taken all reasonable means, by enforcing, to the best of his power, the observance of this section to prevent such non-compliance.

58. Every person who pulls down, injures, or defaces any abstract, notice, proposed special rules, or special rules, when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

Pulling down or
defacing notices.
Ibid. s. 58.

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PART III.

SUPPLEMENTAL.

DIVISION 1.—*Legal proceedings.*

Penalty for offences
against Act.

60 Vic. No. 12, s. 59.

59. Every person employed in or about a mine other than an owner, agent, or manager, who is guilty of any act or omission, which, in the case of an owner, agent, or manager, would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

60. Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed, shall be liable to a fine not exceeding, if he is an owner, agent, or manager, or under-manager, twenty pounds, and if he is any other person, two pounds for each offence; and if an inspector has given written notice of any such offence, to a further fine not exceeding five pounds for every day after such notice that such offence continues to be committed.

Imprisonment for
wilful neglect
endangering life or
limb.

Ibid. s. 60.

61. Where a person who is an owner, agent, manager, or under-manager of, or a person employed in or about a mine, is guilty of any offence against this Act which, in the opinion of the court that tries the case, is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a fine will not meet the circumstances of the case, to imprisonment with or without hard labour for a period not exceeding three months.

General provisions as
to summary proceed-
ings.

Ibid. s. 62.

No. 44, 1902, s. 6.

62. In every part of New South Wales the following provisions shall have effect:—

- (a) Any complaint or information made or laid in pursuance of this Act shall (save as otherwise expressly provided by this Act) be made or laid within six months from the time when the matter of the complaint or information arose.
- (b) Any person charged with any offence under this Act may, if he thinks fit, be sworn and examined as an ordinary witness in the case.
- (c) The court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

Liability for mis-
representation as to
age, &c.

Ibid. s. 4.

63. Where, in consequence of any false representation and under the belief in good faith that such representation is true, any boy is employed at an age at which his employment is a contravention of this

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this Act, or any person is allowed to work as a coal-getter or a shale-getter in the face of the workings of a mine in contravention of the provisions of this Act, the owner, agent, or manager of the mine and employer shall be exempted from any penalty for such contravention; and the person making the false representation shall be deemed guilty of an offence against this Act.

64. No prosecution shall be instituted against the owner, agent, manager, or under-manager of a mine for any offence under this Act, not committed personally by such owner, agent, manager, or under-manager, which can be prosecuted before justices of the peace in petty sessions, except by an inspector or with the consent in writing of the Minister; and in the case of any offence of which the owner, agent, manager, or under-manager of a mine is not guilty, if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner, agent, manager, or under-manager, if satisfied that he had taken such reasonable means as aforesaid. No prosecution shall be instituted against a coroner for any offence under this Act, except with the consent in writing of the Minister.

Prosecution of
owners, agents,
managers, &c.
60 Vic. No. 12, s. 65.

65. Where the owner, agent, or manager of a mine has taken proceedings under this Act against any person employed in or about a mine in respect of an offence committed under this Act, he shall within twenty-one days after the hearing of the case report the result thereof to the inspector of the district.

Report of result of
proceedings against
workmen.
Ibid. s. 66.

66. (1) Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so, however, that no person be punished twice for the same offence.

Saving for
proceedings under
other Acts.
Ibid. s. 67.

(2) If the justices of the peace before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise, they may adjourn the case to enable such proceedings to be taken.

67. A person who is the owner, agent, or manager of any mine, or a miner or miner's agent, or the father, son, or brother, or father-in-law, son-in-law, or brother-in-law, of such owner, agent, or manager, or of a miner or a miner's agent, or who is a director of a company being the owner of a mine, shall not sit in petty sessions or adjudicate in respect of any offence under this Act.

Owner of mine, &c.,
not to act as justice,
&c., in proceedings
under this Act.
Ibid. s. 68.

68. Where a fine is imposed under this Act for neglecting to send a notice of any explosion or accident, or for any offence against this Act which has occasioned loss of life or personal injury, the Minister may, if he thinks fit, direct such fine to be paid to or distributed among

Application of fines
Ibid. s. 69.

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among the persons injured, and the relatives of any persons whose death may have been occasioned by the explosion, accident, or offence, or among some of them: Provided that—

- (a) such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence;
- (b) the fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence.

Save as aforesaid all fines recovered under this Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund.

DIVISION 2.—*Miscellaneous.*

References to
repealed enactment.
60 Vic. No. 12, s. 76.

69. Any document referring to the Act thirty-ninth Victoria number thirty-one, or to any Act repealed by this Act, or to any enactment of any such Act shall be construed to refer to this Act, and to the corresponding enactments thereof.

Decision of question
whether a mine is
under this Act.
Ibid. s. 70.

70. If any question arises, otherwise than in legal proceedings, whether a mine is a mine to which this Act applies, the question shall be referred to the Minister, whose decision thereon shall be final.

Powers of Minister
as to making and
revoking orders.
Ibid. s. 71.

71. Any order of or exemption granted by the Minister under this Act may be made, and from time to time revoked or altered by the Minister, either unconditionally or subject to such conditions as he may see fit, and shall be signed by the Minister or Under Secretary for Mines.

Entry on adjoining
mine, &c., to ascer-
tain whether owner,
&c., is encroaching.
Ibid. s. 73.

72. (1) Upon the affidavit of any person taken before any justice of the peace or commissioner of the Supreme Court for taking affidavits claiming to be legally or equitably interested in any mine or in any land adjoining or near to any other mine, that the owner of such last-mentioned mine is, or is by the person making such affidavit, believed to be encroaching upon such first-mentioned mine or land, the Minister may, by writing under his hand, authorise an inspector, together with a mining surveyor or experienced miner, to enter upon such last-mentioned mine or land for the purpose of ascertaining whether any such encroachment has been made, and if so the extent thereof.

(2) Before granting such authority the Minister shall require the person making or lodging the affidavit to deposit such a sum of money not exceeding one hundred pounds as is necessary to cover the cost of such inspection.

(3)

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(3) The persons so authorised may thereupon enter on the mine or land described in such order and descend any shaft or enter any mine, and for such purpose use the engines and other machinery ordinarily employed for that purpose by the person whose shaft or mine is descended or entered, and make such plans and sections of the mine or land entered upon and of any drives or other works therein as are necessary for the purpose aforesaid; and the owner or agent of the mine to be entered upon shall render all necessary assistance to the person so authorised. What may be done under such authority.

(4) Every such inspector, or surveyor, or miner shall, before entering on such mine or land, make a statutory declaration that he will not, except as a witness in a court of justice, without the consent in writing of the owner of the mine or land to be entered upon, divulge or cause to be divulged to any person whomsoever any information obtained upon or by such entry save only as to whether such owner is encroaching on such first-mentioned mine or land. Prior statutory declaration required.

(5) Every person who acts contrary to such declaration, and any owner or agent who refuses such assistance as is necessary to enable the persons authorised by the Minister to descend the shaft or enter and examine the mine, shall forfeit and pay a sum not exceeding ten pounds: Penalty.

Provided always that the Minister may, out of the sum deposited as aforesaid, defray the cost of such inspection, and if such owner or agent render such assistance as is necessary for the purposes aforesaid, and if there is no encroachment, may out of such sum award to such owner compensation for any loss or expense to which he may be put by reason of such inspection.

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SCHEDULES.

60 Vic. No. 12, s. 6.

FIRST SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
60 Vic. No. 12 ...	Coal Mines Regulation Act, 1896 ...	The whole unrepealed portion.
No. 44, 1900 ...	Coal Mines Regulation Act, 1896, Amendment Act.	The whole

SECOND SCHEDULE.

Proceedings of board for appointing examiners.

1. The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions:—

- (a) An extraordinary meeting may be held at any time on the written requisition of three members of the board addressed to the chairman.
- (b) The quorum to be fixed by the board shall consist of not less than three members.
- (c) Every question shall be decided by a majority of votes of the members present and voting on that question.
- (d) The names of the members present as well as those voting upon each question shall be recorded.
- (e) No business shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.

2. The board shall from time to time appoint some person to be chairman, and one other person to be vice-chairman.

3. If at any meeting the chairman is not present at the time appointed for holding the same, the vice-chairman shall be the chairman of the meeting; and if neither the chairman nor vice-chairman shall be present, then the members present shall choose some one of their number to be chairman of such meeting.

4. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

5. The appointment of an examiner may be made by a minute of the board, signed by the chairman.

6. The board shall keep minutes of their proceedings, which may be inspected or copied by the Minister or any person authorised by him to inspect or copy the same.

7. The minutes shall record the decision of the examiners as to the qualifications of applicants for certificates, and shall state whether an applicant has qualified for a first or a second class certificate of competency.

8. The board shall require the examination for certificates of competency to be partly by examination papers and partly by oral examination.

THIRD

Coal Mines Regulation.

THIRD SCHEDULE.

60 Vic. No. 12, ss.
19 and 24.

Table of maximum fees to be paid in respect of certificates.

				£	s.	d.
First-class certificate.						
By an applicant for examination ... ..	...	...	...	2	0	0
For copy of certificate ... ..	...	...	...	0	5	0
Second-class certificate.						
By an applicant for examination ... ..	...	...	...	1	0	0
For copy of certificate ... ..	...	...	...	0	2	6

FOURTH SCHEDULE.

Section 27.

COAL MINES REGULATION ACT, 1902.

Form of return.

THIS form to be correctly filled up by the owner, agent, or manager, and sent to the inspector of the district, on behalf of the Minister, on or before twenty-first January every year.

PART A.

Year ending 31 December, 19 .

- Name of mine
- Situation of mine
- County
- Name of owner (company)
- Name of manager
- Name of under-manager
- Postal address

Return of persons ordinarily employed during the year.

Under ground	Boys under 16	
	Males above 16	
	Total under ground.....	
Above ground (including those employed on sidings and private branch railways and tramways, and in cleaning, washing, and coking of coal).	Boys under 14	
	Boys of 14 and under 16	
	Males above 16	
	Total above ground... ..	
Total number of persons employed under ground and above ground		

Quantity

Coal Mines Regulation.

Quantity of mineral wrought during the year.

Mineral wrought.	Number of statute tons wrought.	Value.
Coal		
Shale-oil shale		
Shale used for other purposes ...		

The number of days in each month on which coal or shale has been drawn.

								Number of days on which coal or shale was drawn.
January...	
February	
March	
April	
May	
June	
July	
August	
September	
October...	
November	
December	

day of 19 .

(Signed)

PART B.

Name of mine

Name of seam.	Mode of ventilation, with description.	Diameter and depth of downcast and upcast shafts.				Number of splits and quantity.		Airways.		Average total quantity of fresh air per minute.
		Downcast.		Upcast.		Splits.	Quantity in cubic feet per minute.	Length of splits.	Sectional area.	
		Diameter in feet.	Depth in feet.	Diameter in feet.	Depth in feet.			Yards.	Square feet.	Cubic.

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

*State Government House,
Sydney, 9th September, 1902.*

HARRY H. RAWSON,
Governor.

Memo. and Certificate to accompany the Coal Mines Regulation Bill.

Section 35 of 60 Vic. No. 12. This is omitted. It is assumed that no boys now under fourteen were employed in the coal mines five years ago.

The definition of the word "boy" is quite inconsistent with the special provisions of the Act, and seems useless, but for greater caution is left untouched.

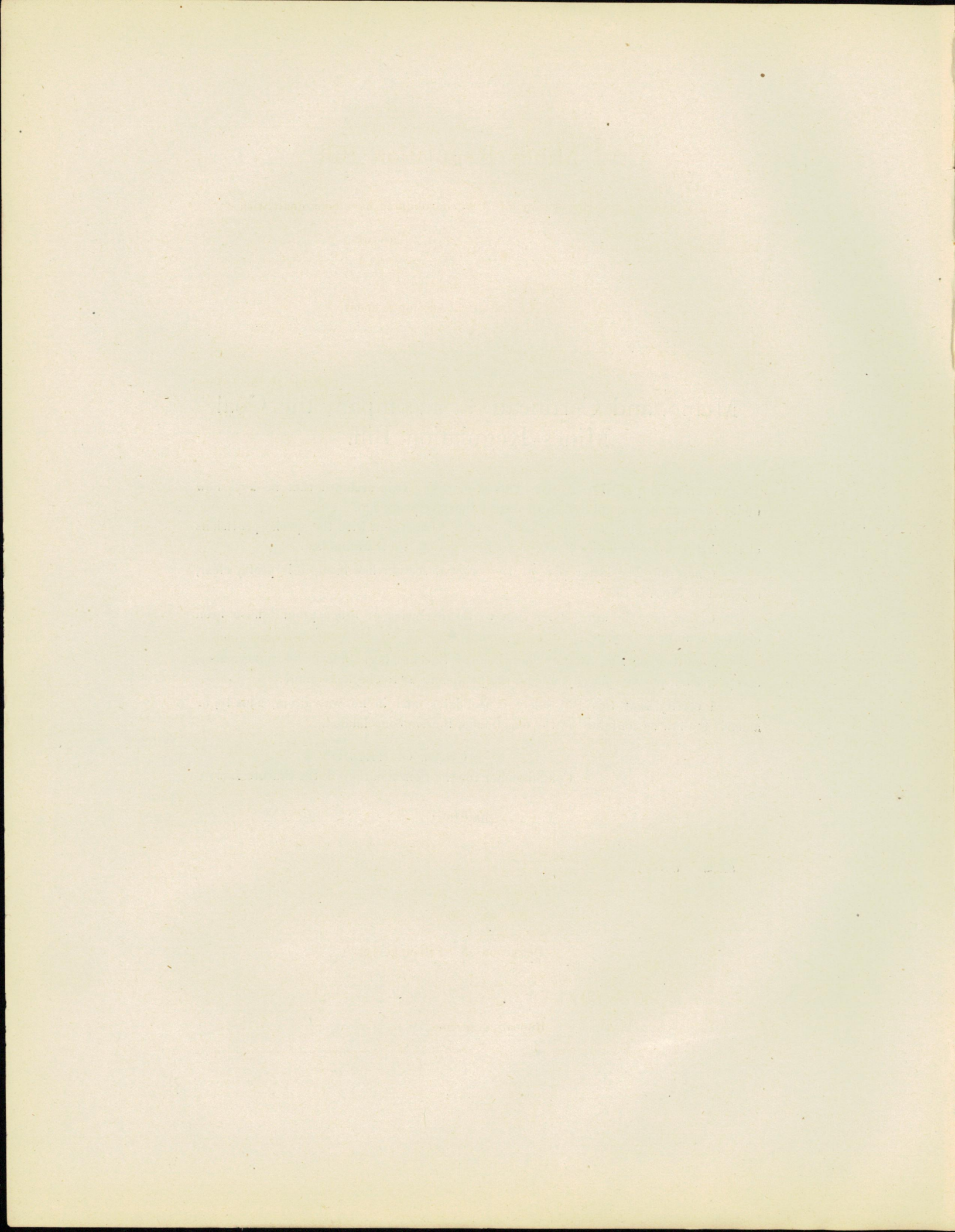
Clause 39. The latter part of the original section has been, it is pretty clear, repealed by No. 71, 1900.

Clause 55. The words "but not to the exclusion of other proof" have been omitted as unnecessary.

Sec. 61 of 60 Vic. No. 12. The whole of this has been omitted as unnecessary, except a small portion placed amongst the provisions as to check weighers.

I certify that this Bill solely consolidates, and in no way alters, adds to, or amends the law as contained in the enactments therein consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.



Coal Mines Regulation Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
60 VICTORIA No. 12.		
1	3	The rest of the section is spent.
2	4	
3, 4	5	
5, 6	6	
7-32	7-32	
33	33	
34-46	34-46	The rest of the section is provided for by the Interpretation Act of 1897, ss. 19, 27.
47	47	
48	49	
49	50	
50	51	
51	52	
52	53	
53	54	
54	55	
55	56	
56	2	
57	57	
58	58	
59	59, 60	
60	61	Part repealed by Act No. 44, 1900.
61	40	
62	62	Part provided for by No. 71, 1900, now consolidated in Justices Act, 1902.
63	.....
64	.....
65	64	
66	65	
67	66	
68	67	
69	68	
70	70	
71	71	
72	2	
73	72	
74	3	
75	2	
76	69	
77	Superseded by No. 71, 1900, s. 9. R. No. 44, 1900, s. 7.
1	.....
2	Repealing section. No. 44, 1900.
3	47 (R. 40), 48	
4	63	
5	47 (R. 42)	
6	61	Short title. Definition of "Principal Act."
7	.....
7	Repealing section.

Coal Mines Regulation Bill

Tables showing how the sections of Acts consolidated have been dealt with.

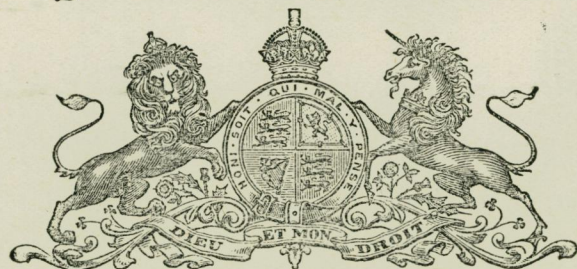
Section of Consolidated Act	Section of Original Act
1	1
2	2
3	3
4	4
5	5
6	6
7	7
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10	10
11	11
12	12
13	13
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100	100

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber,
Sydney, 9th July, 1902. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

Act No. , 1902.

An Act to consolidate enactments relating to the regulation of Coal Mines and Collieries.

BE it enacted by the King'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:—

1. (1) This Act may be cited as the "Coal Mines Regulation Act, 1902," and is divided into Parts, as follows:—

Commencement,
short title, and
application of Act.
60 Vic. No. 12, ss.
72, 75.

PART I.—MINES REGULATION—

DIVISION 1.—*Certificated managers, under-managers, and engine-drivers*—ss. 4-15.

DIVISION 2.—*Inspection*—ss. 16-24.

Coal Mines Regulation.

DIVISION 3.—*Arbitration*—s. 25.

DIVISION 4.—*Coroners*—s. 26.

DIVISION 5.—*Returns, plan, notices, and abandonment*—ss. 27-33.

DIVISION 6.—*Employment of boys and females*—ss. 34-36.

DIVISION 7.—*Wages*—ss. 37-42.

DIVISION 8.—*Single shafts*—ss. 43-45.

DIVISION 9.—*Division of mine into parts*—s. 46.

PART II.—RULES—

DIVISION 1.—*General rules*—ss. 47-49.

DIVISION 2.—*Special rules*—ss. 50-56.

DIVISION 3.—*Publication of abstract of Act and of special rules*—ss. 57, 58.

PART III.—SUPPLEMENTAL—

DIVISION 1.—*Legal proceedings*—ss. 59-68.

DIVISION 2.—*Miscellaneous*—ss. 69-72.

2. (1) The Acts mentioned in the First Schedule to this Act are First Schedule. to the extent therein expressed hereby repealed.

(2) All rules, regulations, and orders made or established, or deemed to have been made or established, all notices given or posted, all abstracts posted, all documents supplied, all certificates granted, all appointments made, and every other matter or thing duly done under or by virtue of the provisions of any enactment hereby repealed and in force, current, or operative at the commencement of this Act shall be of the same force and effect in all respects as if this Act had been in force when they were so made, established, given, granted, posted, supplied, or done, and they had been made, established, given, granted, posted, supplied, or done hereunder.

3. (1) In this Act, unless the context otherwise indicates or Interpretation of terms. requires,—

“Agent,” when used in relation to any mine, means any person 60 Vic. No. 12, ss. 1, 74. appointed as the representative of the owner in respect of any mine, or of any part thereof, and as such superior to a manager appointed in pursuance of this Act.

“Boy”

Coal Mines Regulation.

- “Boy” means a male under the age of sixteen years.
- “Inspector,” means an inspector of collieries referred to in or appointed under this Act.
- “Mine” includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine.
- “Owner,” when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine, subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability.
- “Plan” includes a correct copy or tracing of any original plan.
- “Shaft” includes pit.
- “The Minister” means the Secretary for Mines.
- (2) This Act shall apply to mines of coal and mines of shale.

PART I.

MINES REGULATION.

DIVISION 1.—*Certificated managers, under-managers, and engine-drivers.*

4. (1) Every mine shall be under a manager, who shall be responsible for the control, management, and direction of the mine, and the owner or agent of every such mine shall nominate himself or some other person to be the manager of such mine, and shall send written notice to the inspector of the district of the manager's name and address.

Appointment of
manager of mine.
60 Vic. No. 12, s. 2.

(2) A person shall not be qualified to be a manager of a mine unless he is for the time being registered as the holder of a first-class certificate of competency or a certificate of service as manager under this Act, or under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or any Act thereby repealed.

(3)

Coal Mines Regulation.

(3) If any mine is worked for more than fourteen days without there being such a manager for the mine as is required by this section, the owner or agent of the mine shall be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding five pounds for every day during which the mine is so worked; provided that—

- (a) the owner or agent of the mine shall not be liable to any such fine if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention of this section;
- (b) if for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of the mine may appoint any competent person not holding a certificate under this Act to be manager, for a period not exceeding two months or such longer period as may elapse before such person has an opportunity in the district wherein the mine is situate of obtaining by examination a certificate under this Act, and shall send to the inspector of the district a written notice of the manager's name and address, and of the reason for his appointment.

(4) In the case of a mine in which not more than twenty persons are employed, it shall be sufficient for the manager to hold a permit from an inspector; such permit shall remain in force for twelve months, but may be renewed at the option of the inspector.

5. (1) In every mine required by this Act to be under the control of a certificated manager, daily personal supervision shall be exercised either by the manager or by an under-manager, nominated in writing by the owner or agent of the mine.

Daily supervision
of mine by manager
or under-manager.
60 Vic. No. 12,
ss. 3, 4.

(2) Every under-manager so nominated must hold either a first-class or second-class certificate under this Act, or under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or any Act thereby repealed, or a certificate of service under section eight of this Act, or under any of the said Imperial Acts, and shall, in the absence of the manager, have the same responsibility and be subject to the same liabilities as the manager under this Act; but the nomination of an under-manager shall not affect the personal responsibility of the manager under this Act.

(3) A contractor for getting mineral in any mine, or person employed by such a contractor, is not eligible for the post of manager or under-manager of that mine under this Act.

Disqualifications for
post of manager or
under-manager.

6. (1) There shall be two descriptions of certificates of competency under this Act—(1) first-class certificates, that is to say, certificates of fitness to be manager; and (2) second-class certificates,

Certificates of
competency to
managers and
under-managers.

that *Ibid.* ss. 5, 6.

Coal Mines Regulation.

that is to say, certificates of fitness to be under-manager; but no person shall be entitled to a certificate of competency under this Act unless he has had practical experience in a mine for at least five years.

(2) For the purpose of ascertaining the persons to receive certificates of competency for the purposes of this Act, examiners shall be appointed by a board consisting of—

Constitution of board for appointing examiners.

- (a) three persons being owners or agents of mines in New South Wales;
- (b) three persons employed or who have been employed in or about any mine in New South Wales not being owners, agents, or managers of a mine; and
- (c) three persons practising as mining engineers or managers of mines in New South Wales; and
- (d) one inspector under this Act.

(3) The members of the board shall be appointed and may be removed by the Minister, and shall hold office during his pleasure.

(4) The proceedings of the board shall be in accordance with the rules contained in the Second Schedule to this Act.

Proceedings and powers of board for appointing examiners.

(5) The board shall from time to time appoint examiners, not being members of the board except with the consent of the Minister, to conduct the examination of applicants for certificates of competency under this Act, and may make, alter, and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in New South Wales, and that the examination and qualifications of applicants for second-class certificates shall be suitable for practical working miners.

Second Schedule.

(6) The board shall make to the Minister a report of their proceedings, and of such other matters as the Minister may require.

7. The Minister may make, alter, and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act, the number and remuneration of the examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in the Third Schedule to this Act. Every such rule shall be observed by the board appointed under this Act.

Rules by Minister as to examinations.
60 Vic. No. 12, s. 7.

Third Schedule.

8. (1) A certificate of service shall be granted by the Minister to every person who satisfies him either that before the first day of October, one thousand eight hundred and ninety-six, he was acting, and has since that date acted, or that he has at any time within five years before the said date, for a period of not less than twelve months, acted in the capacity of an inspector or of a manager of a mine or such part of a mine as can under this Act be made a separate mine for the purposes of this Act.

Grant of certificates of service to existing managers.
Ibid. s. 8.

Coal Mines Regulation.

(2) A certificate of service shall be granted by the Minister to every person who satisfies him either that before the said date he was exercising, and has since that date exercised, or that he has at any time within five years before the said date, for a period of not less than twelve months, exercised functions substantially corresponding to those of an under-manager in a mine.

Grant of certificates of service in case of certain under-managers.

(3) Every such certificate of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered, and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Minister may direct, not exceeding that mentioned in the Third Schedule to this Act.

Third Schedule.

(4) A certificate of service granted under this section to an inspector or a manager shall have the same effect for the purposes of this Act as a first-class certificate of competency granted under this Act; and a certificate of service granted under this section to an under-manager shall have the same effect for the purposes of this Act as a second-class certificate of competency granted under this Act.

(5) Before granting a certificate of service to a manager or under-manager the Minister shall require the applicant to produce satisfactory evidence of his sobriety and general good conduct.

(6) No certificate of service shall be granted in terms of this section unless it be proved by statutory declaration that during the twelve months aforesaid there has been an average of not less than thirty miners employed below ground under the control and supervision of the applicant for the said certificate.

(7) A certificate of competency or of service granted under the Imperial Act fifty and fifty-one Victoria, chapter fifty-eight, or under any Act repealed thereby, or any other certificate of competency or service approved by the examiners, shall be equivalent in all respects to a similar certificate granted under this Act.

9. (1) The Minister shall deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct, such a certificate of competency as the case requires. The certificate shall be in such form as the Minister directs.

Grants of certificates to applicants on passing examination. 60 Vic. No. 12, s. 9.

(2) A register of the holders of certificates of competency or service under this Act and under any of the Imperial Acts aforesaid within the State shall be kept by such person and in such manner as the Minister directs.

Register of certificates.

Coal Mines Regulation.

10. If at any time representation is made to the Minister by an inspector or otherwise that any manager or under-manager holding a certificate under this Act or under any Imperial Act is by reason of incompetency or gross negligence, unfit to discharge his duties, or has been convicted of an offence against this Act, the Minister may cause inquiry to be made into the conduct of the manager or under-manager, and with respect to every such inquiry the following provisions shall have effect—

Inquiry into competency of manager or under-manager, and cancellation of certificate in case of unfitness.

60 Vic. No. 12, s. 10.

- (a) the inquiry shall be public, and shall be held at such place as the Minister may appoint by such District Court Judge, police magistrate, or stipendiary magistrate, as may be directed by the Minister, and either alone or with the assistance of any assessor or assessors named by the Minister;
- (b) the Minister shall, before the commencement of the inquiry, furnish to the manager or under-manager a statement of the case on which the inquiry is instituted;
- (c) some person appointed by the Minister shall undertake the management of the case;
- (d) the manager or under-manager may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case;
- (e) the person or persons appointed to hold the inquiry, in this section and in section eleven referred to as the court, shall, on the conclusion of the inquiry, send to the Minister a report containing a full statement of the case, and the opinion of the court thereon, and such report of or extracts from the evidence as the court thinks fit;
- (f) the court may cancel or suspend the certificate of the manager or under-manager if it finds that he is by reason of incompetency or gross negligence, or of his having been convicted of any offence against this Act, unfit to discharge his duty;
- (g) the court may require a manager or under-manager to deliver up his certificate, and if any manager or under-manager fails without sufficient cause to the satisfaction of the court to comply with such requisition, he shall be liable to a fine not exceeding one hundred pounds. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore, cancel, or suspend the certificate according to its judgment on the case;
- (h) the court shall have for the purpose of the inquiry, all the powers of a Court of Petty Sessions, and all the powers of an inspector under this Act;
- (i) the court may also, by summons signed by the court, require the attendance of all such persons as it thinks fit to summon
and

Coal Mines Regulation.

and examine for the purpose of the inquiry ; and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court in its Common Law jurisdiction ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Prothonotary, who, on request signed by the court, shall ascertain and certify the proper amount of such expenses.

11. (1) The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any stipendiary or police magistrate or any two justices of the peace in petty sessions, as if such costs and expenses were a fine imposed by that Court of Petty Sessions.

Costs and expenses of inquiry.
60 Vic. No. 12, s. 11.

(2) The Minister may pay to the person or persons constituting the court, including any assessors, such remuneration as he may appoint.

(3) Any costs and expenses ordered by the court to be paid by the Minister, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament.

12. (1) Where a certificate of a manager or under-manager is cancelled or suspended in pursuance of this Act, the Minister shall cause the cancellation or suspension to be recorded in the register of holders of certificates.

Record of cancellation of certificate ; restoration in certain cases.

Ibid. s. 12.

(2) The Minister may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act, and cause the renewal or restoration to be recorded in the register aforesaid.

13. Whenever any person proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act or under any Imperial Act the Minister shall, on payment of such fee, if any, as he directs, but not exceeding the fee specified in the Third Schedule to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register; and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate.

Copy of certificate in case of loss.

Ibid. s. 13.

Third Schedule.

14. (1) All expenses incurred by the Minister in carrying into effect the provisions of this Act with respect to certificates of competency and service shall be defrayed out of moneys provided by Parliament.

Expenses in relation to certificates and application of fees.

Ibid. s. 14.

Coal Mines Regulation.

(2) All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the Treasury as the Treasurer directs, and be carried to the Consolidated Revenue Fund.

15. Every person who commits any of the following offences, that is to say—

Penalty for forgery of, or false declaration as to certificate.
60 Vic. No. 12, s. 15.

- (1) forges, or counterfeits, or knowingly makes any false statement in any certificate of competency, or of service granted under this Act or the Imperial Act fifty and fifty-one Victoria chapter fifty-eight, or any Act repealed thereby, or any official copy of any such certificate; or
- (2) knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement; or
- (3) for the purpose of obtaining for himself or any other person employment as a certificated manager or under-manager, or the grant, renewal, or restoration of any certificate under this Act or under any of the said Imperial Acts, or a copy thereof, either—
 - (a) makes or gives any declaration, representation, statement, or evidence which is false in any particular; or
 - (b) knowingly utters, produces, or makes use of any such declaration, representation, statement, or evidence, or any document containing the same,

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for a term not exceeding two years, with or without hard labour.

DIVISION 2.—*Inspection.*

16. The persons who, on the first day of October, one thousand eight hundred and ninety-six, were acting as inspectors under the Act thirty-ninth Victoria number thirty-one; and are still continuing to act as such under the Act hereby repealed, shall continue to act in the same manner, and generally to be in the same position, as if they had been respectively appointed under this Act.

Existing inspectors continued.
Ibid. s. 16.

17. (1) The Minister may appoint duly qualified persons to be inspectors (under whatever title he may fix) of mines, and assign them their duties, and may award them such salaries as he thinks fit or Parliament approves, and may remove any such inspector.

Appointment of inspectors of mines.
Ibid. s. 17

(2) Notice of the appointment of every such inspector shall be published in the Gazette.

(3) Every such inspector is referred to in this Act as an inspector, and the inspector of a district means the inspector who is for the time being assigned to the district or portion of New South Wales with reference to which the term is used.

(4)

Coal Mines Regulation.

(4) Every inspector under this Act, shall hold a first-class certificate of competency or service as hereinbefore provided in regard to managers, but for the purposes of this Act service as an inspector of collieries will be equivalent to service as manager of a mine. Inspectors to hold certificates.

18. Any person who practises or acts as or is a partner of any person who practises or acts as a land agent or mining engineer, or as a manager, viewer, agent, or valuer of mines, or arbitrator in any difference arising between owners, agents, or managers of mines, or is otherwise employed in or about any mine, or is a miner's agent or a mine-owner (whether the mine is one to which this Act applies or not) shall not act as an inspector of mines under this Act, and no inspector shall be a partner or have any interest direct or indirect in any mine in the district under his charge. Disqualification of persons as inspectors. 60 Vic. No. 12, s. 18.

19. (1) An inspector under this Act shall have power to do all or any of the following things, namely— Powers of inspectors. Ibid. a. 19.

- (a) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine ;
- (b) to enter, inspect, and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine ;
- (c) to examine into and make inquiry respecting the state and condition of any mine or part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto, or the care and treatment of the horses and other animals used in the mine ;
- (d) to exercise such other powers as may be necessary for carrying this Act into effect.

(2) Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner, agent, and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination, or inquiry under this Act, in relation to the mine, shall be guilty of an offence against this Act.

20. (1) If in any respect (which is not provided against by any express provision of this Act or by any special rule) any inspector finds any mine or any part thereof, or any matter, thing, or practice in or connected with any such mine, or with the control, management, or direction thereof by the manager to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the owner, agent, or manager of Notice by inspector of causes of danger not expressly provided against. Ibid. s. 20.

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of the mine, and shall state in the notice the particulars in which he considers the mine or any part thereof, or any matter, thing, or practice to be dangerous or defective, and require the same to be remedied, and shall, unless the same be forthwith remedied, report the same to the Minister.

(2) If the owner, agent, or manager of the mine objects to remedy the matter complained of in the notice he may, within ten days after the receipt of the notice, send his objection in writing, stating the grounds thereof to the Minister, and thereupon the matter shall be determined by arbitration in manner provided by this Act, and the date of the receipt of the objection shall be deemed to be the date of the reference.

(3) If the owner, agent, or manager fails, when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or when there has been an arbitration to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of the offence:

Provided that the court, if satisfied that the owner, agent, or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4) No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section.

21. Every inspector of a district under this Act shall make an annual report of his proceedings during the preceding year to the Minister, which report, when embodied in the annual report of the Department of Mines, shall be laid before both Houses of Parliament.

Annual reports of inspectors.
60 Vic. No. 12, s. 21.

22. Where in any mine an explosion or accident has caused loss of life or personal injury to any person, the Minister may at any time direct an inspector to make a special report with respect to the explosion or accident.

Special reports of inspectors.
Ibid. s. 22.

23. Where it appears to the Minister that a formal investigation of any explosion or accident and of its causes and circumstances is expedient, the Minister may direct such investigation to be held, and with respect to any such investigation the following provisions shall have effect—

Formal investigation when directed by the Minister.
Ibid. s. 23.

(1) The Minister may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation.

(2)

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- (2) The person or persons so appointed (hereinafter called the court) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and enabling the court to make the report in this section mentioned.
- (3) The court shall have for the purpose of the investigation all the powers of a Court of Petty Sessions when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers, namely—
 - (a) to enter and inspect any place or building, the entry or inspection whereof appears to the court requisite for the said purpose ;
 - (b) by summons signed by the court, to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make ;
 - (c) to require the production of all books, papers, plans, and documents which it considers important for the said purpose ;
 - (d) to require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.
- (4) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before the Supreme Court in its Common Law jurisdiction ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to the Prothonotary, who, on request signed by the court, shall ascertain and certify the proper amount of the expenses.
- (5) The court holding an investigation under this section shall make a report to the Minister, stating the causes of the explosion or accident and its circumstances, and adding any observations which the court thinks right to make.
- (6) All expenses incurred in and about an investigation under this section (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 the Act.
- (7) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, 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 section, or prevents or impedes the court
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in the execution of its duty, shall for every such offence be liable to a fine not exceeding ten pounds, and in the case of a failure to comply with a requisition for making any return or producing any document shall be liable to a fine not exceeding ten pounds for every day that such failure continues.

24. The Minister may cause any special report of an inspector or any report of a court, under this Part of this Act, to be made public at such time and in such manner as he may think fit.

Publication of reports.
60 Vic. No. 12, s. 24.

DIVISION 3.—*Arbitration.*

25. With respect to arbitrations under this Act, the following provisions shall have effect, and except where they are inconsistent, with the provisions of this Act the provisions of the Arbitration Act, 1902, shall apply to arbitrations under this Act—

Provisions as to arbitrations.
Ibid. s. 25.

- (a) the parties to the arbitration are in this section deemed to be the owner, agent, or manager of the mine on the one hand, and the inspector of mines (on behalf of the Minister) on the other;
- (b) each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator;
- (c) every person who is appointed an arbitrator under this section shall be a practical mining engineer or a person accustomed to the working of mines, and no person shall act as arbitrator or umpire, under this Act, who is employed in, or in the management of, or is interested in the mine to which the arbitration relates;
- (d) the appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party;
- (e) the death, removal, or other change in any of the parties to the arbitration shall not affect the proceedings under this section;
- (f) if within the said fourteen days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final;
- (g) if before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days refuses or neglects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place, and if he fails to do so within seven days after

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- after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final ;
- (h) in either of the foregoing cases where an arbitrator is empowered to act singly on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred ;
 - (i) if the arbitrators fail to make the award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned ;
 - (j) the arbitrators, before they enter on the matter referred to them, shall appoint, by writing under their hands, an umpire to decide on points on which they may differ ;
 - (k) if the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place ;
 - (l) if the arbitrators refuse or fail, or for seven days after the request of either party neglect to appoint an umpire, then, on the application of either party, an umpire shall be appointed by the Minister, and such umpire shall be a District Court Judge or a Chairman of Quarter Sessions within the jurisdiction of which the mine or any shaft of the mine is situate ;
 - (m) the decision of every umpire on the matters referred to him shall be final ;
 - (n) if a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place ;
 - (o) arrangements shall, wherever practicable, be made for the matter in difference being heard at the same time before the arbitrators and the umpire ;
 - (p) the arbitrators and the umpire, or any of them, may examine the parties and their witnesses on oath, and may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult ;
 - (q) the payment (if any) to be made to any arbitrator or umpire for his services shall be fixed by the Minister, and, together with

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with the costs of the arbitration and award, shall be paid by the parties, or one of them, according as the award directs. Such costs may be taxed by the Prothonotary, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount (if any) payable by the Minister shall be paid as part of the expenses of inspectors under this Act. The amount (if any) payable by the owner, agent, or manager may, in the event of non-payment, be recovered in the same manner as fines under this Act.

DIVISION 4.—*Coroners.*

26. (1) With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in or about mines, the following provisions shall have effect—

Provisions as to coroners' inquests on deaths from accident in mines.

60 Vic. No. 12, s. 26.

- (a) where a coroner holds an inquest on the body of any person whose death may have been caused by any explosion or accident, of which notice is required by this Act to be given to the inspector of the district, the coroner shall adjourn the inquest, unless an inspector, or some person on behalf of the Minister, is present to watch the proceedings;
- (b) the coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest;
- (c) the coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof;
- (d) if an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest at such time as to reach the inspector not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section if the majority of the jury think it unnecessary so to adjourn;
- (e) an inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner;
- (f) where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or defect;
- (g) any person having a personal interest in, or employed in, or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury
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- impanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury;
- (h) any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held, and the owner, agent, or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent.

(2) Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

DIVISION 5.—*Returns, plan, notices, and abandonment.*

27. (1) On or before the twenty-first day of January in every year the owner, agent, or manager of every mine shall send to the inspector of the district on behalf of the Minister a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the particulars contained in the form in the Fourth Schedule to this Act, or in such other form as may be prescribed in lieu of that form by the Minister: Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B of the said form, unless or until the Minister otherwise prescribes.

Returns by owner,
agent, or manager of
mine.

60 Vic. No. 12, s. 27.

(2) Forms for the purpose of the returns required by this section shall on application be furnished by the inspector on behalf of the Minister.

(3) The Minister may publish the aggregate results of the returns made under this section with respect to the whole of New South Wales, or any particular inspector's district, or any large portion of an inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought; but the portion of any individual return relating to the quantity of mineral gotten or wrought shall not be published without the consent of the person making the return, or of the owner of the mine to which it relates; and no person except an inspector, or the Minister, or the Under Secretary for Mines shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

(4) Every owner, agent, or manager of a mine who fails to comply with this section or makes any return which is to his knowledge false in any particular shall be guilty of an offence against this Act.

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28. (1) The owner, agent, or manager of every mine shall keep in the office at the mine an accurate plan of the workings of the mine, showing the workings up to a date not more than three months previously, and the general direction and rate of dip of the strata, together with the section of the strata sunk through, or, if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam, and in addition to the above mentioned plan there shall also be provided a tracing of a surface plan on the same scale showing thereon all streets, roads, buildings, creeks, rivers, bays, swamps, navigable waters, and limits of any tidal waters within the said boundary.

Plan of mine to be kept at office.
60 Vic. No. 12, s. 28.

(2) The owner, agent, or manager of the mine shall, on request at any time of an inspector under this Act, produce to him at the office at the mine such plan and section, and shall also on the like request mark on such plan and section the then state of the workings of the mine; and the inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof respectively.

(3) If the owner, agent, or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid, or wilfully withholds any portion thereof, or wilfully refuses on request to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment, imperfection, or inaccuracy) be guilty of an offence against this Act; and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner, agent, or manager to cause an accurate plan and section, showing the particulars hereinbefore required, to be made within a reasonable time at the expense of the owner of the mine. Every such plan must be on a scale of not less than two chains to the inch, or on the same scale as the plan for the time being in use at the mine.

(4) If the owner, agent, or manager fails within twenty days after the requisition of the inspector, or within such further time as is allowed by the Minister, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

(5) Every copy as aforesaid shall be deposited in the principal office of the Department of Mines and Agriculture, and, except as evidence in a court, no copy thereof shall be furnished nor information in relation thereto given; but if, on the complaint of any owner or lessee of the surface, or the accredited officer of any municipality, that his or their rights or interests may be affected by the

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working of the mine, the Minister thinks fit so to direct, the inspector shall furnish a tracing of such part of the workings as are situated under the surface in respect of which complaint has been made.

(6) If any officer furnishes any copy, tracing, or information, or allows any person to inspect any such plan or tracing, unless directed by the Minister as aforesaid, he shall be guilty of an offence against this Act.

29. (1) Where in or about any mine, whether above or below ground—

- (a) loss of life or any personal injury whatever to any person employed in or about the mine occurs by reason of any explosion of gas or of any explosive or of any steam-boiler; or
 (b) loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever,

the owner, agent, or manager of the mine shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident, and of the loss of life or personal injury occasioned thereby to the inspector of the district, on behalf of the Minister, and shall specify in the notice the character of the explosion or accident, and the number of persons killed or injured respectively.

(2) Where in or about any mine, whether above or below ground, loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred shall be left as it was immediately after the explosion or accident until the expiration of at least three days after the sending of such notice as aforesaid of such explosion or accident or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger, or would impede the working of the mine.

(3) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the district, on behalf of the Minister, within twenty-four hours after such death comes to the knowledge of the owner, agent, or manager.

(4) Every owner, agent, or manager who fails to act in compliance with this section shall be guilty of an offence against this Act.

30. In any of the following cases, namely—

- (a) where any working is commenced for the purpose of opening a new shaft for or a seam of any mine ;
 (b) where a shaft or seam of any mine is abandoned, or the working thereof discontinued ;
 (c) where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months ; or
 (d)

Notice to be given of opening and abandonment of mine.

Ibid. s. 30.

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(d) where any change occurs in the name of any mine, or in the name of the owner, agent, or manager of any mine to which this Act applies, or in the principal officers of any incorporated company which is the owner of a mine, the owner, agent, or manager of the mine shall give notice thereof to the inspector of the district within one month after the commencement, abandonment, discontinuance, recommencement, or change; and if such notice is not given, the owner, agent, or manager shall be guilty of an offence against this Act.

31. (1) Where any mine is abandoned, or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof and every other person interested in the minerals of the mine shall cause the top of every shaft and every side entrance from the surface to be and to be kept securely fenced for the prevention of accidents: Provided that—

Fencing in case of abandoned mine.
60 Vic. No. 12, s. 31.

(a) subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs, charges, and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect;

(b) nothing in this section shall exempt any person from any liability under any other Act or otherwise.

(2) If any person fails to act in conformity with this section he shall be guilty of an offence against this Act.

(3) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages, penalty, or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

(4) If any occupier of land or other person wilfully obstructs the owner of a mine or other person interested as aforesaid in doing any such acts he shall be guilty of an offence against this Act.

(5) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or unenclosed land, shall be deemed to be a public nuisance.

32. (1) Where any mine or seam is abandoned, the owner of the mine or seam at the time of its abandonment shall, within three months after the abandonment, send to the Minister an accurate plan showing the boundaries, the whole of the workings of the mine or seam up to the time of the abandonment, and the position of the workings with regard to the surface, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft, with

Plan of abandoned mine or seam to be sent to Minister.
Ibid. s. 32.

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a section of the seam. Every such plan must be on a scale of not less than two chains to the inch, or on the same scale as the plan used at the mine at the time of its abandonment.

(2) The plan and section shall be preserved under the care of the Minister; but no person, except as provided in section twenty-eight, other than an inspector under this Act, shall be entitled, without the consent of the owner or agent of the mine or seam, to see the plan when so sent until after the expiration of ten years from the time of the abandonment.

(3) The owner or agent aforesaid shall also, within three months of the abandonment of the mine or seam, send to the inspector of the district, on behalf of the Minister, a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this Act, the particulars required in that return; and the provisions of this Act with respect to the said annual return shall apply to the return so sent.

(4) If the owner or agent of a mine or seam fails to comply with this section he shall be guilty of an offence against this Act, and be liable to a fine not exceeding thirty pounds.

(5) A complaint or information of an offence under this section may be made or laid at any time within six months after abandonment of the mine or seam, or after service on the owner or agent aforesaid of a notice to comply with the requirements of this section, whichever last happens.

33. All notices under this Act shall be in writing, and when expressly so required, shall be in print, and all notices and documents required by this Act to be served or sent by or to an inspector may be either delivered personally, or served and sent by post by a registered letter.

Service of notices.
60 Vic. No. 12, s. 33.

DIVISION 6.—Employment of boys and females.

34. No boy under the age of fourteen years and no female shall be employed in or about a mine.

Boys under fourteen and females.

35. (1) No boys between the age of fourteen years and eighteen years shall be employed in or allowed to be, for the purposes of employment, in any mine below ground for more than nine hours on Monday, Tuesday, Wednesday, Thursday, Friday, and six hours on one Saturday and eight hours on the next Saturday.

Hours of employment of boys.
Ibid. s. 34.

(2) For the purposes of this Act, with respect to the employment of such boys in a mine below ground, the following regulations shall have effect, that is to say—

Regulations as to employment of boys.

- (a) there shall be allowed an interval of not less than twelve hours between each period of employment.
- (b) each period of employment shall be exclusive of one hour for meals.

(3)

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(3) The owner, agent, or manager of every mine shall keep in the office at the mine a register, and shall cause to be entered in that register, in such form as the Minister prescribes or sanctions, the name, age, residence, and date of first employment of all boys under the age of eighteen employed in the mine below ground, and of all such boys employed above ground in connection with the mine; and shall, on request, produce the register to any inspector under this Act, and to any officer of the Department of Public Instruction, at the mine, at all reasonable times, and shall allow any such inspector or officer to inspect and copy the same.

(4) The immediate employer of every such boy, other than the owner, agent, or manager of the mine, before he causes the boy to be below ground in any mine, shall report to the manager of the mine, or to some person appointed by that manager, that he is about to employ the boy in the mine.

36. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect to the employment of boys or females, or to the register of boys, or to reporting the intended employment of boys, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing, and, to the best of his power, enforcing the provisions of this Act, to prevent the contravention or non-compliance.

Penalty for employment of persons in contravention of Act.
60 Vic. No. 12, s. 36.

DIVISION 7.—*Wages.*

37. (1) No wages shall be paid to any person employed in or about any mine at or within any public-house, beer-shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging thereto or occupied therewith.

Prohibition of payment of wages at public-houses, etc.
Ibid. s. 37.

(2) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of this section, to prevent the contravention or non-compliance.

38. (1) Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, those persons shall be paid according to the actual weight gotten by them

Payment of persons employed in mines by weight.
Ibid. s. 38.

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them of the mineral contracted to be gotten, and the mineral gotten by them, shall be truly weighed at a place as near to the pit mouth as is reasonably practicable :

Provided that nothing in this section shall preclude the owner, agent, or manager of the mine from agreeing with the persons employed in the mine that deductions shall be made in respect of stones or substances other than the mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined in such special mode as may be agreed upon between the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner, agent, or manager, or, if any check-weigher is stationed for this purpose as hereinafter mentioned, by such person and such check-weigher, or in case of difference by a third person to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a Chairman of a Court of Quarter Sessions within the jurisdiction of which any shaft of the mine is situate.

(2) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with this section, he shall be guilty of an offence against this Act ; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing, and to the best of his power, enforcing the provisions of this section to prevent the contravention or non-compliance.

(3) Nothing in this Act shall be held to authorise or give any power to any owner or manager of a mine to pay miners by the method known as the standard weight system, being the system abolished by the Act sixtieth Victoria number twelve hereby repealed.

(4) Where it is proved to the satisfaction of the Minister, in the case of any mine or class of mines employing not more than twenty persons under ground, to be expedient that the persons employed therein should, upon the joint representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this Act, such Minister may, if he think fit, by order, allow the same either without conditions or during the time and on the conditions specified in the order.

39. Whenever any sum of money not exceeding fifty pounds is claimed to be due to any person on account of any kind of labour performed at any coal mine in charge of an owner or agent, any justice

Agent may be
summoned for wages.
60 Vic. No. 12, s. 39.

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justice of the peace or clerk of petty sessions upon complaint made to him touching or concerning the non-payment of any such sum, may summon such owner or agent to appear before any two justices of the peace at the nearest petty sessions, and the justices of the peace there assembled may examine the parties and their respective witnesses touching the complaint, and may inspect any agreement or duplicate copy thereof if produced, and may make an order for the payment by such owner or agent of such sum, not exceeding fifty pounds, as appears to such justices to be lawfully due, together with all costs incurred and damage sustained by the complainant in prosecuting such claim.

40. (1) The persons who are employed in a mine, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person, in this Act referred to as "a check-weigher," at each place appointed for the weighing of the mineral, and at each place appointed for determining the deductions, in order that he may, on behalf of the persons by whom he is so stationed, take a correct account of the weight of the mineral, or determine correctly the deductions, as the case may be. He shall be authorised to require that the process of weighing shall be carried on continuously throughout the working hours during the whole time that the pit is drawing coal.

Appointment on part
of men, and removal
of check-weigher.
60 Vic. No. 12,
ss. 40, 61.

(2) A check-weigher shall have every facility afforded to him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the taring of tubs and trams where necessary, and including also the continuous weighing of the coal; and if at any time proper facilities are not afforded to a check-weigher as required by this section, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to enforce to the best of his power the requirements of this section.

(3) A check-weigher shall not be authorised in any way to impede or interrupt the working of the mine, or to interfere with the weighing, or with any of the workmen, or with the management of the mine; but shall be authorised only to fulfil the duties in the two preceding subsections mentioned, and the absence of a check-weigher from the place at which he is stationed shall not be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner, agent, or manager, unless the absent check-weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with:

Provided always that nothing in this section shall prevent a check-weigher giving to any workman an account of the mineral gotten

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gotten by him, or information with respect to the weighing or the weighing-machine, or the taring of the tubs or trams, or with respect to the deductions, or any other matter within the scope of his duties as check-weigher, so always, nevertheless, that the working of the mine be not interrupted or impeded.

(4) If the owner, agent, or manager of the mine desires the removal of a check-weigher on the ground that the check-weigher has impeded or interrupted the working of the mine, or interfered with the weighing or with any of the workmen, or with the management of the mine, or has at the mine, to the detriment of the owner, agent, or manager, done anything beyond taking such account, determining such deductions, or giving such information as aforesaid, the owner, agent, or manager may complain to the nearest court of petty sessions, who, if of opinion that the owner, agent, or manager shows sufficient prima facie ground for the removal of the check-weigher, shall call on the check-weigher to show cause against his removal.

(5) On the hearing of the case the court shall hear the parties, and if they think that at the hearing sufficient ground is shown by the owner, agent, or manager to justify the removal of the check-weigher, shall make a summary order for his removal, and the check-weigher shall thereupon be removed, but without prejudice to the stationing of another check-weigher in his place.

(6) Proceedings for the removal of a check-weigher shall be deemed to be a matter on which justices in petty sessions have authority by law to make an order, and the court may in every case make such order as to the costs of the proceedings as the court may think just.

(7) If in pursuance of any order of exemption made by the Minister the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of this Act shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly.

(8) If the person appointed by the owner, agent, or manager to weigh the mineral impedes or interrupts the check-weigher in the proper discharge of his duties, or improperly interferes with or alters the weighing-machine or the tare in order to prevent a correct account being taken of the weighing and taring, he shall be guilty of an offence against this Act.

41. (1) Where a check-weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine and so paid his proportion of the check-weigher's wages

Remuneration of
check-weigher.
60 Vic. No. 12, s. 41.

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wages or recompense, notwithstanding that any of the persons by whom the check-weigher was appointed may have left the mine or others have entered the same since the check-weigher's appointment, any rule of law or equity to the contrary notwithstanding.

(2) It shall be lawful for the owner or manager of any mine, where the majority of the before-mentioned persons, ascertained as aforesaid, so agree, to retain the agreed contribution of the persons so employed and paid as aforesaid for the check-weigher, and to pay and account for the same to the check-weigher.

42. (1) The Weights and Measures Act, 1898, and any Act relating to weights and measures, shall apply to all weights, balances, scales, steelyards, and weighing-machines used at any time for determining the wages payable to any person employed in the mine according to the weight of the mineral gotten by him, in like manner as it applies to weights, balances, scales, steelyards, and weighing-machines used for trade.

Inspection of weights,
&c., used in mines.
60 Vic. No. 12, s. 42.

(2) An inspector of weights and measures appointed under the said Act shall once at least in every six months inspect and examine in manner directed by the said Act the weights, balances, scales, steelyards, and weighing-machines used or in the possession of any person for use as aforesaid at any mine within his district; and shall also make such inspection and examination at any other time in any case where he has reasonable cause to believe that there is in use at the mine any false or unjust weight, balance, scale, steelyard, or weighing-machine.

(3) The inspector shall also inspect and examine the measures and gauges in use at the mines within his district; but nothing in this section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine.

(4) An inspector may, for the purposes of this section, without any authorisation from a justice of the peace, exercise at or in any mine, as respects all weights, measures, scales, balances, steelyards, and weighing-machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise, if authorised in writing by a justice of the peace, under the Weights and Measures Act, 1898, with respect to any such weights, measures, scales, balances, steelyards, and weighing-machines as therein mentioned; and all the provisions of sections twelve and thirteen of that Act, including the liability to penalties, shall apply to such inspection.

(5) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, impede or obstruct the working of the mine.

DIVISION

*Coal Mines Regulation.*DIVISION 8.—*Single shafts.*

43. (1) The owner, agent, or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the following conditions respecting shafts or outlets are complied with, that is to say—

Prohibition of single shafts.
60 Vic. No. 12, s. 43.

- (a) There must be at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine.
- (b) Such shafts or outlets must not at any point be nearer to one another than fifty yards, and there shall be between such two shafts or outlets a communication not less than four feet wide and six feet high.
- (c) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine, and such apparatus if not in actual use at the shafts or outlets shall be constantly available for use.

(2) Every owner, agent, and manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Act.

(3) The Supreme Court, whether any other proceedings have or have not been taken, may, on the application of the Attorney-General, prohibit by injunction the working of any mine in which any person is employed, or is permitted to be for the purpose of employment in contravention of this section, and may award such costs in the matter of the injunction as the Court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

(4) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner, agent, or manager of the mine not less than ten days before the application is made.

44. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine, where the same is required by this Act or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Agreements not to preclude compliance with Act.
Ibid. s. 44.

45. (1) The foregoing provisions of this Act with respect to shafts or outlets shall not apply—

Exceptions from provisions as to shafts.

(a) in the case of a new mine being opened—

Ibid. s. 45.

- (i) to any working for the purpose of making a communication between two or more shafts;
- (ii)

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- (ii) to any working for the purpose of searching for or proving minerals ;
so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet ; nor
- (b) to any proved mine, so long as it is exempted by order of the Minister, on the ground either—
 - (i) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable ; or
 - (ii) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam ;
and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet ; nor
- (c) to any mine—
 - (i) while a shaft is being sunk or an outlet being made ; or
 - (ii) one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine ;
so long as the mine is exempted by order of the Minister, and as the conditions, if any, annexed to the order of exemption are duly observed.

(2) The provision in this Act requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifty yards shall not apply to any mine which was provided with two shafts sunk before the first day of October, one thousand eight hundred and ninety-six, but at that time separated by a distance of less than ten feet or commenced to be sunk before the said date, but separated by a distance of more than ten feet and less than fifty yards.

(3) The foregoing provisions of this Act as to the dimensions of the communication between two shafts or outlets shall not apply to any mine or class of mines so long as the same is exempted therefrom by order of the Minister, by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions, if any, annexed to the order of exemption are duly observed.

DIVISION

*Coal Mines Regulation.*DIVISION 9.—*Division of mine into parts.*

46. (1) Where two or more parts of a mine are worked separately, the owner, agent, or manager of the mine shall give notice in writing to that effect to the inspector of the district, and thereupon each such part shall, for all purposes of this Act, be deemed to be a separate mine. Division of mine into parts. 60 Vic. No. 12, s. 46.

(2) If the Minister is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner, agent, or manager of the mine; and the owner, agent, or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district, stating that he declines to acquiesce, and thereupon the matter shall be determined by arbitration in manner provided by this Act, and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

PART II.

RULES.

DIVISION 1.—*General rules.*

47. The following general rules shall be observed, so far as is reasonably practicable, in every mine— General rules. Ibid. s. 47.

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working-place of the shafts, levels, stables, and workings of the mine, and the travelling roads to and from those working-places shall be in a fit state for working and passing therein. The ventilation so produced shall be the supply of pure air in quantity not less than one hundred cubic feet per minute for each man, boy, and horse employed in the mine, which air in that proportion, but with as much more as the inspector shall direct, shall sweep along the airways and be forced as far as the face of and into each and every working-place where man, boy, or horse is engaged or passing, main return airways only excepted. Ventilation of mines.

Every mine, except such as are worked on the long-wall system, shall be divided into districts or splits of not more than seventy men in each; and each district shall be supplied with a separate current of fresh air. The intake air shall travel free

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free from all stagnant water, stables, and old workings. In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

Rule 2. Where a fire is used for ventilation in any mine newly opened after the first day of October, one thousand eight hundred and ninety-six, the return air, unless it is so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift or airway. Ventilation by fire.

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the last-mentioned date, it shall be in such position and placed under such conditions as will tend to insure its being uninjured by an explosion. Ventilation by machinery.

Rule 4. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require, and the following provisions shall have effect:— Stations and inspections of conditions as to ventilation, &c.

(a) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner, agent, or manager for the purpose, not being a contractor for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof, and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflammable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, the condition of the ventilation, and what defects, if any, in roofs or sides, and what if any other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and, so far as the same does not consist of printed matter, shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift.

(b)

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(b) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

Rule 5. A competent person or competent persons, appointed by the owner, agent, or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Inspection of
machinery, &c.,
above and below
ground.

Rule 6. Every entrance to any place which is not in actual use or course of working and extension shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

Fencing of
entrances.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas, shall inspect the mine or part with a locked safety-lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be readmitted into the mine, or part so found dangerous, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Withdrawal of
workmen in case of
danger.

Rule

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Rule 8. No lamp or light other than a locked safety-lamp shall be allowed or used,— Use of safety-lamps in certain places.

- (a) in any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or
- (b) in any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety-lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return airway.

Rule 9. Wherever safety-lamps are used, they shall be so constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable. Construction of safety lamps.

Rule 10. In any mine or part of a mine in which safety-lamps are required by this Act, or by the special rules made in pursuance of this Act to be used,— Examination of safety lamps.

- (a) a competent person appointed by the owner, agent, or manager for the purpose shall, either at the surface, or at the appointed lamp station, examine every safety-lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked, and such lamps shall not be used until they have been so examined and found in safe working order and securely locked;
- (b) a safety-lamp shall not be unlocked except either at the appointed lamp station or for the purpose of firing a shot, in conformity with the provisions hereinafter contained;
- (c) a person, unless he has been appointed either for the purpose of examining safety-lamps, or for the purpose of firing shots, shall not have in his possession any contrivance for opening the lock of any safety-lamp;
- (d) a person shall not have in his possession any lucifer match or apparatus of any kind for striking a light except within a completely closed chamber attached to the fuse of the shot.

Rule 11. Where safety-lamps are required to be used, the position of the lamp stations for lighting or relighting the lamps shall not be in the return air. Lamp stations.

Rule

Coal Mines Regulation.

Rule 12. Any explosive substance shall only be used in the mine Use of explosives below ground.
below ground, as follows—

- (a) it shall not be stored in the mine ;
- (b) it shall not be taken into the mine, except in cartridges in a secure case or canister containing not more than five pounds : Provided that on the application of the owner, agent, or manager of any mine, the Minister may, by order, exempt such mine from so much of this rule as forbids taking an explosive substance into the mine except in cartridges ;
- (c) a workman shall not have in use at one time in any one place more than one of such cases or canisters ;
- (d) in the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel pricker, scraper, charger, tamping rod, or stemmer ; nor in any mine or part of a mine in which safety-lamps are required by this Act to be used shall dry coal or coal-dust be used for tamping ;
- (e) no explosive shall be forcibly pressed into a hole of insufficient size, and when a hole has been charged, the explosive shall not be unrammed ; and no hole shall be bored for a charge at a distance of less than six inches from any hole where the charge has missed fire : Provided that in cases where a fuse is used no person shall return to a place where such charge has missed fire until a period of eight hours has elapsed from the lighting of the fuse attached to such charge ;
- (f) in any place in which the use of a locked safety-lamp is for the time being required by or in pursuance of this Act, or which is dry and dusty, no shot shall be fired except by, or under the direction of, a competent person appointed by the owner, agent, or manager of the mine ; and such person shall not fire the shot or allow it to be fired until he has examined both the place itself where the shot is to be fired and all contiguous accessible places of the same seam within a radius of twenty yards, and has found such place safe for firing ;
- (g) if in any mine, at either of the inspections under Rule four recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district in which the shot is to be fired, the shot shall not be fired—
 - (i) unless a competent person, appointed as aforesaid, has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place sufficient gas issuing or accumulated to render it unsafe to fire the shot ; or
 - (ii)

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- (ii) unless the explosive employed in firing the shot is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas ;
- (h) if the place where a shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say—
 - (i) unless the place of firing and all contiguous accessible places within a radius of twenty yards therefrom are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides ; or
 - (ii) in the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust ;
- (i) if such dry and dusty place is part of a main haulage road, or is a place contiguous thereto, and showing dust adhering to the roof and sides, no shot shall be fired there unless—
 - (i) both the conditions mentioned in sub-rule (h) have been observed ; or
 - (ii) unless such one of the conditions mentioned in sub-rule (h) as may be applicable to the particular place has been observed, and moreover all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam-boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine ;
- (k) in this Act “ventilating district” means such part of a seam as has an independent intake commencing from a main intake air-course, and an independent return air-way terminating at a main return air-course; and “main haulage road” means a road which has been, or for the time being is, in use for moving trams by steam or other mechanical power ;
- (l) where a seam of a mine is not divided into separate ventilating districts the provisions in this Act relating to ventilating districts shall be read as though the word “seam” were substituted for the words “ventilating district.”

Coal Mines Regulation.

- Rule 13.* Where any place is likely to contain a dangerous accumulation of water, the working approaching that place shall not at any point within forty yards of that place exceed eight feet in width, and there shall be constantly kept at a sufficient distance, not being less than five yards in advance, at least one bore-hole, near the centre of the working, and sufficient flank bore-holes on each side. Water and bore-holes.
- Rule 14.* Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass, or gin, shall be provided, if exceeding thirty yards in length, with some proper means of communicating distinct and definite signals between the stopping-places and the ends of the plane, and shall be provided in every case with sufficient man-holes or places of refuge, at intervals of not more than twenty yards, and of not more than six feet high, three feet wide, and four feet deep, or if there is not room for a person to stand between the side of a tub and the side of the plane, then, unless the tubs are moved by an endless chain or rope, at intervals of not more than ten yards. Signalling and man-holes for travelling planes worked by machinery.
- Rule 15.* Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient man-holes or places of refuge, and every such place of refuge shall be of sufficient length, and at least three feet in width between the waggons running on the road and the side of such road. There shall be at least two proper travelling ways in every steam-engine room and boiler gallery. Man-holes for other travelling roads.
- Rule 16.* Every man-hole and every place of refuge shall be constantly kept clear, and no person shall place anything in any such man-hole or place of refuge. Man-holes to be kept clear.
- Rule 17.* Every travelling road on which a horse or other draught animal is used underground shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing against the roof or timbering. Dimensions of travelling roads.
- Rule 18.* The top of every shaft which for the time being is out of use, or used only as an air-shaft, shall be and shall be kept securely fenced. Fencing of shafts.
- Rule 19.* Every shaft in course of sinking shall be provided with a trolley to run over the pit's mouth and receive the load when brought to the surface. Such trolley to be large enough to cover the opening at the pit top. Trolley over pit mouth.
- Rule 20.* The top and all entrances between the top and bottom, including the sump, if any, of every working, ventilating, or pumping shaft shall be properly fenced, but this shall not be taken Fencing of entrances to shafts.

Coal Mines Regulation.

taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used.

Rule 21. Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure. Every shaft in course of sinking shall be kept clear of all noxious gases by a fan or some other appliance. Securing of shafts.
Sinking pit to be cleared of gas.

Rule 22. The roof and sides of every travelling road and working-place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working-place which is not made so secure. Securing of roofs and sides.

Rule 23. Where the timbering of the working-places is done by the workmen employed therein, suitable timber shall be provided at the working-place, gate end, pass-by, siding, or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where they are required shall not exceed six feet or such less distance as may be ordered by the owner, agent, or manager. Timbering.

Rule 24. Where there is a downcast and furnace shaft to the same seam, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, on giving reasonable notice, have the option of using the downcast shaft. Option of using downcast shaft.

Rule 25. In any mine which is usually entered by means of machinery a competent male person not less than twenty-two years of age shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for that purpose during the whole time that any person is below ground in the mine. Attendance of engineman.

Where any shaft, plane, or level is used for the purpose of communication from one part to another part of a mine, and persons are taken up or down or along such shaft, plane, or level by means of any engine, windlass, or gin driven or worked by steam or any mechanical power, or by an animal or by manual labour, the person in charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith, must be a competent male person not less than eighteen years of age.

Where the machinery is worked by an animal, the person under whose direction the driver of the animal acts shall for the purpose of this rule be deemed to be the person in charge of the machinery.

Rule

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- Rule 26.* Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector of the district, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft, and to every entrance for the time being in use between the surface and the bottom of the shaft. Means of signalling for working shafts.
- Rule 27.* If in any mine the winding apparatus is not provided with some automatic contrivance to prevent overwinding, then the cage when men are being raised shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules. Overwinding.
- Rule 28.* A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the inspector of the district. Cover overhead.
- Rule 29.* A single-linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to the cage or tub. Chains.
- Rule 30.* There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping. Prevention of rope slipping on drum.
- Rule 31.* There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate brake or brakes and a proper indicator, in addition to any mark on the rope, showing to the person who works the machine the position of the cage or tub in the shaft. If the drum is not on the crank shaft there shall be an adequate brake on the drum shaft. Brake and indicator.
- Rule 32.* Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and shall be kept securely fenced. Fencing machinery.
- Rule 33.* Each steam-boiler, whether separate or one of a range, shall have attached to it a proper safety-valve and also a proper steam-gauge and water-gauge to show respectively the pressure of steam and the height of water in each boiler. Safety-valves and gauges for boilers.
- Rule 34.* A barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine. Barometer, &c.

Rule

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- Rule 35.* Where persons are employed underground, ambulances or stretchers, with splints and bandages, shall be kept at the mine ready for immediate use in case of accident. Stretchers.
- Rule 36.* No person shall wilfully damage, or without proper authority remove or render useless, any fence, fencing, man-hole, place of refuge, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act. Wilful damage.
- Rule 37.* Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act or the special rules in force in the mine. Observance of directions.
- Rule 38.* The books mentioned in these rules shall be provided by the owner, agent, or manager, and the books, or a correct copy thereof, shall be kept at the office of the mine, and any inspector under this Act and any person employed in the mine may, at all reasonable times, inspect and take copies of and extracts from any such books; but nothing in these rules shall be construed to impose the obligation of keeping any such book or a copy thereof for more than twelve months after the book had ceased to be used for entries therein under this Act. Any report by this Act required to be recorded in a book may be partly in print, including lithograph, and partly in writing. Books and copies thereof.
- Rule 39.* The persons employed in a mine may from time to time appoint two of their number or any two persons not being mining engineers who are practical working miners to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return air-ways, ventilating apparatus, old workings and machinery. Every facility shall be afforded by the owner, agent, and manager, and all persons in the mine for the purpose of inspection, and the persons appointed shall forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept in the mine for the purpose, and shall be signed by the persons who made the inspection, and if the report states the existence or apprehended existence of any danger, the owner, agent, or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district. Periodical inspection on behalf of workmen.
- Rule 40.* No person other than a person employed or working on the fifth day of November, one thousand nine hundred as a coal-getter Person not to be employed in coal-getting without experience. No. 44, 1900, s. 3.

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coal-getter or shale-getter shall work or be allowed to work as a coal-getter or a shale-getter in the face of the workings of a mine, unless—

- (a) he has been employed or has worked for two years in or about the face of the workings of a mine as coal-getter or shale-getter; or
- (b) he works in company with a person who has been employed or has worked for two years in or about the face of the workings of a mine as a coal-getter or a shale-getter.

Rule 41. If the owner, agent, or manager of any mine or any persons employed by or acting under the instructions of any such owner, agent, or manager interferes with the appointment of a check-inspector or check-weigher, or refuses to afford proper facilities for the holding of any meeting for the purpose of making such appointment, or attempts, whether by threats, bribes, promises, notice of dismissal or otherwise howsoever, to exercise improper influence in respect of such appointment, or to induce the persons entitled to appoint a check-inspector or a check-weigher or any of them not to reappoint any particular person, or to vote for or against any particular person, in the appointment of a check-inspector or check-weigher, such owner, agent, or manager shall be guilty of any offence against this Act.

Penalty for interference with office of check-inspector or check-weigher.

Rule 42. Every sinking shaft exceeding one hundred and fifty feet in depth shall be provided with guides and guide attachments applied in such manner as to prevent the bucket or other appliance from swinging while being lowered or raised in such shaft, and such guides and guide attachments shall be maintained from the surface to a distance of not more than seventy-five feet from the bottom of such shaft until its sinking has been completed.

No. 44, 1900, s. 5.

48. Where it is reported to an inspector, and such inspector is satisfied after due inquiry, that any person is working in any mine in contravention of the provisions of rule forty of section forty-seven, he may, after giving notice to the owner of the mine, or his agent or manager, order such person to cease working, and such person shall thereupon cease working as aforesaid.

Ibid. s. 3.

49. Every person who contravenes or does not comply with any of the general rules in this Act shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

Penalty on non-compliance with rules.
60 Vic. No. 12, s. 48.

*Coal Mines Regulation.*DIVISION 2.—*Special rules.*

50. (1) There shall be established in every mine such rules, referred to in this Act as special rules, for the conduct and guidance of the persons acting in the management of such mine or employed in or about the mine as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety, convenience, and proper discipline of the persons employed in or about the mine.

Special rules for every mine.
60 Vic. No. 12, s. 49.

(2) Such special rules, when established, shall be signed in duplicate by the inspector who is inspector of the district at the time the rules are established, and shall be observed in and about every such mine, including any extension thereof, in the same manner as if they were enacted in this Act.

(3) If any person who is bound to observe the special rules established for any mine acts in contravention of or fails to comply with any of them, he shall be guilty of an offence against this Act, and also the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the rules and regulations for the working of the mine, so as to prevent such contravention or non-compliance.

51. (1) The owner, agent, or manager of every mine shall frame and transmit to the inspector of the district, for approval by the Minister, special rules for the mine within three months after the commencement of any working for the purpose of opening a new mine or of renewing the working of an old mine.

Establishment of new special rules.
Ibid. s. 50.

(2) The proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom, may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice, shall, during not less than two weeks before the rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules for the information of persons employed in the mine; and a certificate that the rules and notice have been so posted up shall be sent to the inspector, with two copies of the rules signed by the person sending the same.

(3) If the rules are not objected to by the Minister within forty days after their receipt by the inspector they shall be established.

52. (1) If the Minister is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine or for the safety or convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the

The Minister may object to special rules.
Ibid. s. 51.

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the inspector, object to the rules, and propose to the owner, agent, or manager, in writing, any modification in the rules, by way either of omission, alteration, substitution, or addition.

(2) If the owner, agent, or manager does not, within twenty days after the modifications proposed by the Minister are received by him, object in writing to them, the proposed special rules, with those modifications, shall be established.

(3) If the owner, agent, or manager sends his objection in writing within the said twenty days to the Minister, the matter shall be referred to arbitration under this Act, and the date of the receipt of the objection by the Minister shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

53. (1) After special rules are established under this Act in any mine, the owner, agent, or manager of the mine may propose in writing to the inspector of the district, for the approval of the Minister, any amendment of the rules or any new special rules; and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as nearly as may be, as they apply to the original rules.

Amendment of
special rules.
60 Vic. No. 12, s. 52.

(2) The Minister may propose in writing to the owner, agent, or manager of the mine any new special rules, or any amendment of the special rules; and the provisions of this Act with respect to a proposal of the Minister for modifying the special rules transmitted by the owner, agent, or manager of a mine, shall apply to all such new special rules and amendments in like manner, as nearly as may be, as they apply to the proposal.

54. If the owner, agent, or manager of any mine makes any false statement with respect to the posting up of the rules and notices, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the inspector for the approval of the Minister, the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by enforcing to the best of his power the provisions of this Act, to secure the transmission of the rules.

False statements,
and neglect to
transmit special
rules.
Ibid. s. 53.

55. An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which, for the time being, are established under this Act in any mine, and a copy so certified shall be evidence of such special rules, and of the fact that they are duly established under this Act and have been signed by the inspector.

Certified copy of
special rules to be
evidence.
Ibid. s. 54.

56. The Governor may make and publish in the Gazette a set or sets of special rules, and thereafter the rules so made and published shall be deemed the special rules of every mine to which this Act applies

Special rules made
by the Governor.
Ibid. s. 55

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applies and in respect of which no special rules shall be in force: Provided that upon special rules being established for any mine, the special rules made by the Governor as aforesaid shall cease to apply to such mine.

DIVISION 3.—*Publication of abstract of Act and of special rules.*

57. For the purpose of making known the provisions of this Act and the special rules to all persons employed in and about each mine, an abstract of this Act supplied, on the application of the owner, agent, or manager of the mine, by the inspector of the district on behalf of the Minister, and a correct copy of all the special rules shall be published, as follows—

Publication of
abstract of Act and
copy of special rules.
60 Vic. No. 12, s. 57.

- (a) the owner, agent, or manager of the mine shall cause the abstract and copy of the rules, with the name of the mine and the name and address of the inspector of the district, and the name of the owner, or agent, and of the manager, appended thereto, to be posted up, in legible characters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch;
- (b) the owner, agent, or manager shall supply a printed copy of the abstract, and the special rules, gratis to each person employed in or about the mine who applies for a copy at the office at which the persons immediately employed by the owner, agent, or manager are paid;
- (c) every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and the employed.

In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act; but the owner, agent, or manager of such mine shall not be deemed guilty if he proves that he had taken all reasonable means, by enforcing, to the best of his power, the observance of this section to prevent such non-compliance.

58. Every person who pulls down, injures, or defaces any abstract, notice, proposed special rules, or special rules, when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

Pulling down or
defacing notices.
Ibid. s. 58.

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PART III.

SUPPLEMENTAL.

DIVISION 1.—*Legal proceedings.*

59. Every person employed in or about a mine other than an owner, agent, or manager, who is guilty of any act or omission, which, in the case of an owner, agent, or manager, would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

Penalty for offences against Act.
60 Vic. No. 12, s. 59.

60. Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed, shall be liable to a fine not exceeding, if he is an owner, agent, or manager, or under-manager, twenty pounds, and if he is any other person, two pounds for each offence; and if an inspector has given written notice of any such offence, to a further fine not exceeding five pounds for every day after such notice that such offence continues to be committed.

61. Where a person who is an owner, agent, manager, or under-manager of, or a person employed in or about a mine, is guilty of any offence against this Act which, in the opinion of the court that tries the case, is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a fine will not meet the circumstances of the case, to imprisonment with or without hard labour for a period not exceeding three months.

Imprisonment for wilful neglect endangering life or limb.

Ibid. s. 60.

62. In every part of New South Wales the following provisions shall have effect:—

General provisions as to summary proceedings.

- (a) Any complaint or information made or laid in pursuance of this Act shall (save as otherwise expressly provided by this Act) be made or laid within six months from the time when the matter of the complaint or information arose.
- (b) Any person charged with any offence under this Act may, if he thinks fit, be sworn and examined as an ordinary witness in the case.
- (c) The court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

Ibid. s. 62.

No. 44, 1903, s. 6.

63. Where, in consequence of any false representation and under the belief in good faith that such representation is true, any boy is employed at an age at which his employment is a contravention of this

Liability for misrepresentation as to age, &c.

Ibid. s. 4.

this

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this Act, or any person is allowed to work as a coal-getter or a shale-getter in the face of the workings of a mine in contravention of the provisions of this Act, the owner, agent, or manager of the mine and employer shall be exempted from any penalty for such contravention; and the person making the false representation shall be deemed guilty of an offence against this Act.

64. No prosecution shall be instituted against the owner, agent, manager, or under-manager of a mine for any offence under this Act, not committed personally by such owner, agent, manager, or under-manager, which can be prosecuted before justices of the peace in petty sessions, except by an inspector or with the consent in writing of the Minister; and in the case of any offence of which the owner, agent, manager, or under-manager of a mine is not guilty, if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner, agent, manager, or under-manager, if satisfied that he had taken such reasonable means as aforesaid. No prosecution shall be instituted against a coroner for any offence under this Act, except with the consent in writing of the Minister.

Prosecution of
owners, agents,
managers, &c.
60 Vic. No. 12. s. 65.

65. Where the owner, agent, or manager of a mine has taken proceedings under this Act against any person employed in or about a mine in respect of an offence committed under this Act, he shall within twenty-one days after the hearing of the case report the result thereof to the inspector of the district.

Report of result of
proceedings against
workmen.
Ibid. s. 66.

66. (1) Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so, however, that no person be punished twice for the same offence.

Saving for
proceedings under
other Acts.
Ibid. s. 67.

(2) If the justices of the peace before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise, they may adjourn the case to enable such proceedings to be taken.

67. A person who is the owner, agent, or manager of any mine, or a miner or miner's agent, or the father, son, or brother, or father-in-law, son-in-law, or brother-in-law, of such owner, agent, or manager, or of a miner or a miner's agent, or who is a director of a company being the owner of a mine, shall not sit in petty sessions or adjudicate in respect of any offence under this Act.

Owner of mine, &c.,
not to act as justice,
&c., in proceedings
under this Act.
Ibid. s. 68.

68. Where a fine is imposed under this Act for neglecting to send a notice of any explosion or accident, or for any offence against this Act which has occasioned loss of life or personal injury, the Minister may, if he thinks fit, direct such fine to be paid to or distributed among

Application of fines
Ibid. s. 69.

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among the persons injured, and the relatives of any persons whose death may have been occasioned by the explosion, accident, or offence, or among some of them: Provided that—

- (a) such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence;
- (b) the fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence.

Save as aforesaid all fines recovered under this Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund.

DIVISION 2.—*Miscellaneous.*

69. Any document referring to the Act thirty-ninth Victoria number thirty-one, or to any Act repealed by this Act, or to any enactment of any such Act shall be construed to refer to this Act, and to the corresponding enactments thereof.

References to repealed enactment.
60 Vic. No. 12, s. 76.

70. If any question arises, otherwise than in legal proceedings, whether a mine is a mine to which this Act applies, the question shall be referred to the Minister, whose decision thereon shall be final.

Decision of question whether a mine is under this Act.
Ibid. s. 70.

71. Any order of or exemption granted by the Minister under this Act may be made, and from time to time revoked or altered by the Minister, either unconditionally or subject to such conditions as he may see fit, and shall be signed by the Minister or Under Secretary for Mines.

Powers of Minister as to making and revoking orders.
Ibid. s. 71.

72. (1) Upon the affidavit of any person taken before any justice of the peace or commissioner of the Supreme Court for taking affidavits claiming to be legally or equitably interested in any mine or in any land adjoining or near to any other mine, that the owner of such last-mentioned mine is, or is by the person making such affidavit, believed to be encroaching upon such first-mentioned mine or land, the Minister may, by writing under his hand, authorise an inspector, together with a mining surveyor or experienced miner, to enter upon such last-mentioned mine or land for the purpose of ascertaining whether any such encroachment has been made, and if so the extent thereof.

Entry on adjoining mine, &c., to ascertain whether owner, &c., is encroaching.
Ibid. s. 73.

(2) Before granting such authority the Minister shall require the person making or lodging the affidavit to deposit such a sum of money not exceeding one hundred pounds as is necessary to cover the cost of such inspection.

(3)

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(3) The persons so authorised may thereupon enter on the mine or land described in such order and descend any shaft or enter any mine, and for such purpose use the engines and other machinery ordinarily employed for that purpose by the person whose shaft or mine is descended or entered, and make such plans and sections of the mine or land entered upon and of any drives or other works therein as are necessary for the purpose aforesaid; and the owner or agent of the mine to be entered upon shall render all necessary assistance to the person so authorised. What may be done under such authority.

(4) Every such inspector, or surveyor, or miner shall, before entering on such mine or land, make a statutory declaration that he will not, except as a witness in a court of justice, without the consent in writing of the owner of the mine or land to be entered upon, divulge or cause to be divulged to any person whomsoever any information obtained upon or by such entry save only as to whether such owner is encroaching on such first-mentioned mine or land. Prior statutory declaration required.

(5) Every person who acts contrary to such declaration, and any owner or agent who refuses such assistance as is necessary to enable the persons authorised by the Minister to descend the shaft or enter and examine the mine, shall forfeit and pay a sum not exceeding ten pounds: Penalty.

Provided always that the Minister may, out of the sum deposited as aforesaid, defray the cost of such inspection, and if such owner or agent render such assistance as is necessary for the purposes aforesaid, and if there is no encroachment, may out of such sum award to such owner compensation for any loss or expense to which he may be put by reason of such inspection.

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SCHEDULES.

FIRST SCHEDULE.

60 Vic. No. 12, s. 6.

Number of Act.	Title of Act.	Extent of repeal.
60 Vic. No. 12 ...	Coal Mines Regulation Act, 1896 ...	The whole unrepealed portion.
No. 44, 1900 ...	Coal Mines Regulation Act, 1896, Amendment Act.	The whole

SECOND SCHEDULE.

Proceedings of board for appointing examiners.

1. The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions:—

- (a) An extraordinary meeting may be held at any time on the written requisition of three members of the board addressed to the chairman.
- (b) The quorum to be fixed by the board shall consist of not less than three members.
- (c) Every question shall be decided by a majority of votes of the members present and voting on that question.
- (d) The names of the members present as well as those voting upon each question shall be recorded.
- (e) No business shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.

2. The board shall from time to time appoint some person to be chairman, and one other person to be vice-chairman.

3. If at any meeting the chairman is not present at the time appointed for holding the same, the vice-chairman shall be the chairman of the meeting; and if neither the chairman nor vice-chairman shall be present, then the members present shall choose some one of their number to be chairman of such meeting.

4. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

5. The appointment of an examiner may be made by a minute of the board, signed by the chairman.

6. The board shall keep minutes of their proceedings, which may be inspected or copied by the Minister or any person authorised by him to inspect or copy the same.

7. The minutes shall record the decision of the examiners as to the qualifications of applicants for certificates, and shall state whether an applicant has qualified for a first or a second class certificate of competency.

8. The board shall require the examination for certificates of competency to be partly by examination papers and partly by oral examination.

THIRD

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THIRD SCHEDULE.

60 Vic. No. 12, ss.
19 and 24.

Table of maximum fees to be paid in respect of certificates.

					£	s.	d.
First-class certificate.							
By an applicant for examination ... ..	...	...	...	...	2	0	0
For copy of certificate ... ..	...	...	...	...	0	5	0
Second-class certificate.							
By an applicant for examination ... ..	...	...	...	...	1	0	0
For copy of certificate ... ..	...	...	...	...	0	2	6

FOURTH SCHEDULE.

Section 27.

COAL MINES REGULATION ACT, 1902.

Form of return.

THIS form to be correctly filled up by the owner, agent, or manager, and sent to the inspector of the district, on behalf of the Minister, on or before twenty-first January every year.

PART A.

Year ending 31 December, 19 .

- Name of mine
- Situation of mine
- County
- Name of owner (company)
- Name of manager
- Name of under-manager
- Postal address

Return of persons ordinarily employed during the year.

Under ground	Boys under 16	
	Males above 16	
	Total under ground.....	
Above ground (including those employed on sidings and private branch railways and tramways, and in cleaning, washing, and coking of coal).	Boys under 14	
	Boys of 14 and under 16	
	Males above 16	
	Total above ground.....	
Total number of persons employed under ground and above ground		

Quantity

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Quantity of mineral wrought during the year.

Mineral wrought.	Number of statute tons wrought.	Value.
Coal		
Shale-oil shale		
Shale used for other purposes ...		

The number of days in each month on which coal or shale has been drawn.

								Number of days on which coal or shale was drawn.
January...	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

day of 19 .

(Signed)

PART B.

Name of mine

Name of seam.	Mode of ventilation, with description.	Diameter and depth of downcast and upcast shafts.				Number of splits and quantity.		Airways.		Average total quantity of fresh air per minute.
		Downcast.		Upcast.		Splits.	Quantity in cubic feet per minute.	Length of splits.	Sectional area.	Cubic.
		Diameter in feet.	Depth in feet.	Diameter in feet.	Depth in feet.			Yards.	Square feet.	