

MINES REGULATION.

No. 63 of 1974.

AN ACT to amend the Mines Regulation Act, 1946-1972.

[Assented to 9th December, 1974.]

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

1. (1) This Act may be cited as the *Mines Regulation Act Amendment Act, 1974.*

Short title
and
citation.

(2) In this Act the Mines Regulation Act, 1946-1972, is referred to as the principal Act.

Reprinted as
approved for
reprint
2nd July,
1971 and
amended by
Act No. 94 of
1972.

(3) The principal Act as amended by this Act may be cited as the Mines Regulation Act, 1946-1974.

Commence-
ment.

2. This Act, or any provision of this Act, shall come into operation on such date as is fixed by proclamation in relation thereto.

Long title
amended.

3. The long title of the principal Act is amended by inserting after the word "mines", in line two, the words "and mining practices".

Section 3
amended.

4. Section 3 of the principal Act is amended—

- (a) by deleting the passage "DIVISION 2—INSPECTORS, ss. 6-23." and substituting the passage "DIVISION 2—INSPECTION, ss. 6-23.";
- (b) by inserting immediately after the passage "DIVISION 2—INSPECTORS, ss. 6-23." the passage "DIVISION 2A—HEALTH, ss. 23A-23F."; and
- (c) by deleting the passage "DIVISION 7—ENGINE DRIVERS, s. 46." and substituting the passage "DIVISION 7—ENGINE DRIVERS AND MACHINERY OPERATORS, ss. 46-46A."

Section 4
amended.

5. Section 4 of the principal Act is amended—

- (a) by inserting after the section designation "4." the subsection designation "(1)";
- (b) by deleting the interpretation of the word "emergency";
- (c) by inserting in its appropriate alphabetical sequence a new interpretation as follows—

"hoist" means a single undivided drum winding engine driven by a motor or engine having a capacity not exceeding twenty kilowatts; ;
- (d) by deleting the interpretation of the word "inspector" and substituting a new interpretation as follows—

"inspector" means an inspector of mines appointed under this Act; ;

- (e) as to the interpretation of the word "mine"—
- (i) by deleting the words "for the purpose of obtaining", in lines one and two of that interpretation, and substituting the words "to obtain";
 - (ii) by inserting after the word "substance", in line three, the words "for commercial purposes or for subsequent use in industry"; and
 - (iii) by deleting the words "but does not include steel making plants or rolling mills", in lines eleven and twelve, and substituting the passage " , and quarries, together with any project for the time being declared to be a mine pursuant to subsection (2) of this section, but does not include steel making plants, rolling mills, administration offices, residential areas, or recreational centres and the ground used in connection therewith";
- (f) by inserting in its appropriate alphabetical sequence a new interpretation as follows—
- "Mines Medical Officer" means a Medical Officer for the time being appointed to and employed in that office under this Act; ;
- (g) as to the interpretation of the words "mining" and "to mine", by deleting the passage commencing with the word "prospecting", in line six of that interpretation, and ending with the word "purposes", in line nine, and substituting the passage "prospecting, developing or working a mine or quarry";
- (h) as to the interpretation of the word "quarry", by deleting the words "site which is mined", in line one of that interpretation, and substituting the words "mine which is worked";

- (i) by inserting in its appropriate alphabetical sequence a new interpretation as follows—

“tunnel” or “adit” means any opening into a mine having an inclination to the horizontal of less than fifteen degrees through which men travel or materials are transported or which is used as a main intake or outlet for ventilation or other purposes; ; and

- (j) by adding three new subsections as follows—

(2) The Governor may by notice in the *Gazette* declare any surface or underground excavation, shaft or tunnel constructed for purposes other than those set out in the interpretation of the word “mine” to be a project which is classed as a mine for the purposes of this Act during any period of the construction of that project, and may in that notice exempt that project from the provisions of this Act specified in the notice and prescribe conditions under which the project may be carried on, and thereupon the provisions of this Act shall apply to that project according to the tenor of the notice so published.

(3) A declaration made under subsection (2) of this section by virtue of which any project is classed as a mine for the purposes of this Act, shall not operate to classify that project as a mine to which this Act applies for the purposes of section seven of the Construction Safety Act, 1972, or the provisions of any other Act.

(4) In certain provisions of this Act reference is specifically made to a quarry or to quarry workings, but the fact that a quarry or quarry workings are not specifically referred to in relation to any provision shall not be construed as excluding a quarry or quarry workings from that provision. .

6. The principal Act is amended by inserting a new section, to stand as section 4A, as follows—

Section 4A
added.

4A. The provisions of this Act shall not be construed as limiting or affecting the provisions of any other Act relating to the inspection or safety of machinery.

Machinery
safety.

7. Section 5 of the principal Act is amended by deleting the passage “, except as hereinafter expressly provided,” in lines one and two.

Section 5
amended.

8. The principal Act is amended by deleting the heading “DIVISION 2.—INSPECTORS.” and substituting the heading “DIVISION 2.—INSPECTION.”

Heading
amended.

9. Section 6 of the principal Act is amended—

Section 6
amended.

- (a) by inserting after the section designation “6.” the subsection designation “(1)”; and
(b) by adding a new subsection as follows—

(2) A person who for the time being holds or is acting in the office of State Mining Engineer or the office of Assistant State Mining Engineer has, and may at any time exercise, the powers of a district inspector under this Act.

10. Section 7 of the principal Act is amended by deleting the words “such person as the Minister may from time to time appoint”, in lines two and three, and substituting the words “the person for the time being holding or acting in the office of State Mining Engineer”.

Section 7
amended.

11. Section 8 of the principal Act is amended by deleting the words “Commonwealth Health Laboratory Certificate”, in lines twenty-five and twenty-six, and substituting the words “current Mine Worker’s Health Certificate under this Act”.

Section 8
amended.

12. Section 10 of the principal Act is amended by inserting after the word “appointment”, in line one, the words “and employment”.

Section 10
amended.

Section 12
amended.

13. Section 12 of the principal Act is amended—

- (a) as to subsection (1), by inserting after the word “with”, in line six of that subsection, the passage “and, where any such provision is not being complied with and in the opinion of that inspector such non-compliance could threaten or tend to the bodily injury of any person employed in that mine or part of that mine, to stop the work in, and order the removal of any person from, that mine or part of the mine until the provisions of this Act are complied with and the hazard removed”;
- (b) as to subsection (2), by inserting after the word “with”, in line five of that subsection, the passage “and, where any such provision is not being complied with underground or in a quarry excavation and in the opinion of that inspector such non-compliance could threaten or tend to the bodily injury of any person employed in that mine or part of that mine, to stop the work in, and order the removal of any person from, that mine or part of the mine until the provisions of this Act are complied with and the hazard removed”;
- (c) as to subsection (3)—
 - (i) by deleting the word “enter”, in line two of that subsection, and substituting the words “inspect and examine”;
and
 - (ii) by deleting the word “before”, in line five of that subsection, and substituting the word “on”; and
- (d) by adding after subsection (3) a new subsection as follows—
 - (4) Where the provisions of any Act relating to the inspection or safety of machinery are applicable to any machinery used in the working of a mine to which that Act applies, and an Inspector of Machinery appointed under the provisions of that Act is not available,

a district inspector may exercise all the powers of an Inspector of Machinery so appointed in respect to that machinery but shall as soon as practicable thereafter report the matter to the Chief Inspector of Machinery appointed under that Act. .

14. Section 13 of the principal Act is hereby repealed and re-enacted with amendments as follows—

Section 13
repealed and
re-enacted.

13. A person holding or acting in the office of an inspector under this Act shall not use for the purpose of personal gain any information that comes to his knowledge in the course of, or by reason of, his employment as such an inspector. .

Misuse of
information.

15. Section 15 of the principal Act is hereby repealed and re-enacted with amendments as follows—

Section 15
repealed and
re-enacted.

15. A person who contravenes the provisions of section 13 or section 14 shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one thousand dollars, or to imprisonment for a term not exceeding two years, or to both such penalty and imprisonment. .

Penalty.

16. Section 16 of the principal Act is amended by deleting the word "one", in line six, and substituting the word "five".

Section 16
amended.

17. Section 17 of the principal Act is amended—

Section 17
amended.

- (a) by inserting after the section designation "17." the subsection designation "(1)"; and
- (b) by adding thereto two new subsections as follows—

(2) A person who fails to give to any person acting in the execution of this Act any assistance which that person may reasonably request him to give, or any information which that person is expressly authorised by this Act to call for or may reasonably require, or who,

when required to give any such information, knowingly makes any false or misleading statement in relation thereto, shall be guilty of an offence against this Act.

(3) Any statement made pursuant to any requirement made under this Act, shall not, if the person making the statement objected, at the time of making it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against the person for any offence not being the offence of contravening or failing to comply with the provisions of this section.

Section 21
amended.

18. Section 21 of the principal Act is amended by deleting all the words following the word "officer", in line ten, and substituting the words "may require the attendance of any mine official and that person shall attend accordingly".

Section 22
amended.

19. Section 22 of the principal Act is amended—

- (a) by inserting immediately before the word "practice", in line three, the word "mining"; and
- (b) by inserting immediately after the word "defective", in line four, the words "or likely to be dangerous or defective".

Division 2A
added.

20. The principal Act is amended—

- (a) by inserting, immediately following section 23, a new heading as follows—

DIVISION 2A.—HEALTH. ; and

- (b) by inserting, immediately before section 24, six new sections as follows—

Medical
Officers.

23A. The Minister may appoint fit and proper persons as Mines Medical Officers and such other medical officers as he thinks fit for the purposes of this Act, and shall issue to any such person a certificate in writing of his appointment.

23B. (1) Regulations may provide that any person who is found to have pneumoconiosis or to be suffering from active pulmonary tuberculosis or to be otherwise medically unsuitable for specified employment shall not be so employed in or about any mine.

Occupational
health.

(2) A Mines Medical Officer shall in the prescribed manner make provision for the periodic medical examination of persons, for the issue of prescribed certificates and notices consequential upon the result of any such examination, for the exemption from specified requirements of persons who have special professional or scientific qualifications or training for work of a specific nature or who for other sufficient reason are not to be subject thereto, and generally for the prevention of occupational diseases.

23C. (1) To deal with all matters connected with the safety and protection of persons working in or about mines in so far as those matters relate to ventilation or environmental atmospheric control and the health of persons, there shall be a body of persons having relevant experience in ventilation technology in whom shall be vested a discretionary authority to advise and consult with all parties interested, to consider proposals, make recommendations, and, where necessary, give directions and determine disputes.

Ventilation
Board.

(2) The body referred to in subsection (1) of this section shall be known as the Ventilation Board, and the membership of that Board shall consist of—

(a) the person holding or acting in the office of State Mining Engineer, who shall be chairman;

- (b) the person holding or acting in the office of Senior Inspector of Mines for the State; and
- (c) three persons appointed by the Minister, of whom—
 - (i) one shall be an Inspector of Mines having specialised training in ventilation technology;
 - (ii) one shall be a medical practitioner having specialised experience in occupational health problems relevant to the mining industry, nominated by the Commissioner of Public Health; and
 - (iii) one shall be a scientific officer having duties under the provisions of the Clean Air Act, 1964, nominated by the Commissioner of Public Health.

(3) A member of the Board may nominate a person to act as his deputy, and may terminate such an appointment at any time, but a person so nominated is, in the event of the absence from a meeting of the Board of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, has all the powers and duties of a Board member.

(4) A quorum of the Board shall be constituted by the chairman and two other members, of whom one shall be a member nominated by the Commissioner of Public Health.

(5) A question arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, but in the event of an equality of votes the chairman has a casting vote in addition to his deliberative vote.

(6) The Board may co-opt any person having relevant specialised knowledge or experience, but a person so co-opted is not entitled to a vote.

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

Functions
of the
Ventilation
Board.

- (a) advising the Minister generally on mine ventilation and related matters including—
 - (i) the standards of purity for ventilating air to be breathed by workmen in or about mines;
 - (ii) the instruments and methods to be used in or about mines to determine the concentration of dust and other atmospheric contaminants, temperatures and velocities of air flow;
 - (iii) the training of ventilation officers and cadets;
 - (iv) the standard of qualification required of a ventilation officer for a mine; and
 - (v) laboratory and library facilities;
- (b) the power to give advice and, where necessary, directions to the owners, agents or managers of mines and quarries specifying the remedial action required to suppress dust emissions;

- (c) a discretionary authority to impose requirements less stringent than those which would otherwise be required under the regulations in relation to the standards of dust concentration in surface workings having regard to location, availability of water and other resources, the duration of the working and other factors where in the opinion of the Board the requirements otherwise imposed under the regulations are impracticable in a particular circumstance;
- (d) the power to hear and adjudicate on appeals in regard to disputes on the adequacy of mine ventilation, the control of dust and other atmospheric contaminants, and the efficiency and adequacy of instruments and monitoring devices used with respect to the control of dust and contaminants on mines as required by the regulations;
- (e) a duty to receive and consider submissions of a technical nature from interested parties on matters related to ventilation and environmental atmospheric control in mines, and to advise the Minister and other interested parties of the Board's view thereon;
- (f) co-operating with officers appointed under the Clean Air Act, 1964, to ensure that adequate provision is made in and on mines to prevent the emission of dust or atmospheric contaminants which may endanger the health of or be a nuisance to the public;

- (g) providing co-ordination between the Department of Public Health and the Mines Department on matters concerning the health of employees on mines; and
- (h) the classification of mines according to the provisions of the regulations relating to occupational disease.

(2) In exercising the function of imposing requirements less stringent than the requirements otherwise imposed by the regulations in relation to the standards of dust concentration in surface workings the Board may, as a condition of the application of those less stringent requirements, by a direction in writing require the owner, agent or manager of a mine or quarry to undertake corrective works to reduce and control dust emissions, either of a nature specified by the Board or such as are adequate to attain a standard required by the Board, within a period specified by the Board.

(3) Requirements imposed by the Board under this section shall have effect in lieu of the more stringent requirements that would otherwise be imposed by the regulations in relation to the standards of dust concentration in surface workings, but where in the opinion of the Board any corrective works required under subsection (2) of this section are not being undertaken in a satisfactory manner the discretionary relaxation of the requirements of the regulations permitted by the Board may, by notice in writing, be terminated.

23E. (1) Where a dispute arises from a decision made by an Inspector with regard to the adequacy or standard of dust control or ventilation, or any of such

Disputes.

matters, on or in a mine, the Manager or other party concerned shall abide by the Inspector's decision but may appeal to the Senior Inspector for the district.

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

Appeals to
the
Ventilation
Board.

23F. (1) An appeal to the Ventilation Board shall be instigated by the appellant notifying the Secretary to the Board, in writing, within seven days from the date of receiving the decision given by the Senior Inspector, of his intention to appeal to the Board.

(2) On receipt of a notice under subsection (1) of this section the Secretary shall fix a date as soon as practicable thereafter for the hearing of the appeal and shall notify the appellant accordingly.

(3) The appellant shall serve on the other parties to the dispute, and on such other persons as the Secretary to the Board may direct, a notice of the appeal stating where and when it is to be heard and unless the Secretary to the Board otherwise directs there must be at least seven clear days between the service of the notice and the date fixed for the hearing.

(4) Any party to the dispute shall, when requested, appear before the Ventilation Board and the Board may hear such further or other persons as the Board thinks fit.

(5) On the hearing of the appeal the Board may make such order, including an order as to costs and charges, in the matter as the Board thinks fit, and the order so made shall be conclusive and binding on the parties.

(6) Where the Board determines that any appeal was trivial the Board, with the approval of the Under Secretary for Mines, may order the appellant to pay the whole or a proportion of the costs of the appeal forthwith.

(7) Any costs or charges relating to an appeal as to which the Board has made no order shall be rendered to the Under Secretary for Mines who, if he considers them reasonable, may apportion them for payment as between the Mines Department and the parties to the appeal in such manner as he thinks just, and any such costs or charges so apportioned may be recovered as a simple contract debt in any court of competent jurisdiction. .

21. Section 24 of the principal Act is amended— Section 24
amended.

(a) as to subsection (1),—

- (i) by deleting the word “Within”, in line one of that subsection and substituting the words “Where twenty-five or more persons are employed in the underground or quarry workings of any mine and in any other case within”;
- (ii) by inserting immediately before the word “inspector”, in line two and again in line four, the word “district”; and
- (iii) by adding after the word “manager”, being the last word in that subsection, the passage “who shall reside in the district in which the mine is situated, but where the workings of the mine are situated in more than one district the manager shall reside in one of those districts”;

- (b) as to subsection (2), by inserting immediately before the word "inspector", in line three of that subsection, the word "district"; and
- (c) by deleting subsection (4) and substituting two new subsections as follows—

(4) Subject to subsection (5) of this section, when the registered manager is to be absent from the mine for one day or more he shall nominate some fit and proper person to act as his deputy during his absence.

(5) If the registered manager is incapacitated from performing his duties or is about to be absent from the mine for more than five days he, or the owner or agent, shall appoint some fit and proper person to act as deputy registered manager during such incapacity or absence and shall forthwith notify in writing such appointment to the district inspector of the district in which the mine is situated.

Section 25
amended.

22. Section 25 of the principal Act is amended—

- (a) as to subsection (2), by deleting the passage "Subject to subsection (7) of this section, the", in line one of that subsection, and substituting the word "The";
- (b) as to subsection (5), by deleting the words "Quarry Supervisor's", in line fourteen of that subsection, and substituting the words "restricted Quarry Manager's";
- (c) as to subsection (6),—
 - (i) by deleting the passage "Subject to subsection (7) of this section, if", in line one of that subsection, and substituting the word "If"; and

- (ii) by deleting the words "Quarry Supervisor's", in line twelve, and substituting the words "restricted Quarry Manager's";
- (d) by inserting after subsection (6) a new subsection as follows—

(6a) Where in any mine the workings, whether underground or quarry workings, extend over or are separated by such a distance that control and daily supervision by the one certificated manager is, in the opinion of the State Mining Engineer, inadequate, the State Mining Engineer may require that a properly certificated manager be appointed by the owner or registered manager of that mine to control and supervise such of those workings as the State Mining Engineer may specify, and thereupon a certificated manager shall be so appointed to each working so specified. ;

- (e) by deleting subsection (7) and substituting two new subsections as follows—

(7) If, at a mine employing twenty-five or more men underground, for any reasonable cause there is not for the time being the required certificated underground manager available, or if he is incapacitated from performing his duties or is absent from the mine, the registered manager or owner may, subject to subsection (8) of this section, appoint some competent person who is the holder only of an Underground Supervisor's Certificate of Competency under the Act, or a certificate that is deemed equivalent thereto by the Board of Examiners established under this Act, to be deputy underground manager during the period that the required certificated underground manager is not available, or is so incapacitated or so

absent, and the owner, agent or manager shall forthwith notify the district inspector of the district wherein the underground workings are situated of the appointment and the reason for it.

(7a) If, at a quarry where twenty-five men or more are employed in or about the quarry by the owner of the quarry, for any reasonable cause there is not for the time being the required certificated quarry manager available, or if he is incapacitated from performing his duties or is absent from the quarry, the registered manager or owner may, subject to subsection (8) of this section, appoint some competent person who is the holder only of a restricted Quarry Manager's Certificate under the Act, or a certificate that is deemed equivalent thereto by the Board of Examiners established under this Act, to be deputy quarry manager during the period that the required certificated quarry manager is not available, or is so incapacitated or so absent, and the owner, agent or manager shall forthwith notify the district inspector of the district wherein the quarry is situated of the appointment and the reason for it. ;
and

- (f) as to subsection (8) by inserting after the passage "subsection (7)", in line two of that subsection, the passage "or subsection (7a)".

Section 26
repealed
and
re-enacted.

23. Section 26 of the principal Act is repealed and re-enacted with amendments as follows—

No person to
act as
manager of
more than
two mines.

26. No person who has been appointed registered manager of any mine or quarry shall, whilst he holds that appointment, be eligible to be appointed or to act as the registered manager of any other mine or quarry without the written approval of the Minister.

24. Section 27 of the principal Act is amended— Section 27
amended.

- (a) by inserting after the section designation "27." the subsection designation "(1)";
- (b) by inserting after the word "Every", in line one, the word "registered";
- (c) after the word "situated", in line five, by deleting all the remainder of the section; and
- (d) by adding a new subsection as follows—

(2) Every underground manager and quarry manager shall within a period of seven days after he has assumed control and daily supervision of the underground workings of a mine or the working of a quarry, as the case may be, report the fact in writing to the district inspector of the district wherein the mine or quarry is situated.

25. Section 28 of the principal Act is amended— Section 28
amended.

- (a) by deleting the word "twenty", in line eight, and substituting the words "one hundred"; and
- (b) by deleting the word "ten", in line nine, and substituting the word "fifty".

26. Section 29 of the principal Act is hereby repealed and re-enacted with amendments as follows— Section 29
repealed and
re-enacted.

29. Prior to mining operations in a mine being commenced or recommenced and prior to total mining operations in a mine being abandoned or discontinued, notice of such intended commencement, recommencement, abandonment or discontinuance shall be given by the owner, agent or manager to the district inspector of the district in which the mine is situated, who shall record the fact. Notice of
commence-
ment,
discontinu-
ance, etc.

Section 30
amended.

27. Section 30 of the principal Act is amended—

- (a) as to subsection (1), by deleting the words “rules and” in line three of that subsection;
- (b) as to subsection (2), by inserting the word “district” before the word “inspector” in line four of that subsection; and
- (c) by deleting subsection (3) and substituting two new subsections as follows—

(3) Where an offence against this Act or any regulation made thereunder is committed by a person and the owner, agent or manager is proved knowingly to have permitted or employed that person to commit the offence, or where the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, the owner, agent, manager or supervisor, or any person who was purporting to act in that capacity, he as well as the person who committed the offence shall be deemed to be guilty of the offence and each of them shall be severally liable to the penalty.

(4) It shall be a defence for any person who would otherwise be liable under this section to prove that he had taken all reasonable means to enforce the provisions of this Act and that the contravention or non-compliance occurred without his consent or connivance and that he exercised all due diligence to prevent it. .

“This Act”
includes
regulations
and rules,
see Act No.
30 of 1918.

Section 31
amended.

28. Section 31 of the principal Act is amended—

- (a) as to subsection (1), —
 - (i) by deleting the passage “, within the period of one week after the accident, or, if it appears to be a serious injury, shall, forthwith give notice of the accident”, in line five to line seven,

and substituting the words “cause notice of the accident to be given”; and

(ii) by deleting paragraph (a) and substituting a new paragraph as follows—

(a) to the district inspector for the district in which the mine is situated; and ;

(b) by adding after subsection (1) a new subsection as follows—

(1a) The notice required to be given under subsection (1) of this section shall—

(a) if the injury appears to be serious, be given by the fastest practicable method of communication as soon as it is reasonably practicable to do so, and shall thereafter be confirmed in writing; and

(b) if the injury appears not to be serious, be given in writing at the end of the calendar month. ;

and

(c) as to subsection (5),—

(i) by deleting the word “or”, being the last word of paragraph (e); and

(ii) by deleting the passage “explosives,” in line three of paragraph (f), and substituting a new passage as follows—

explosives; or

(g) any explosion or bursting of compressed air receivers, .

29. Section 34 of the principal Act is amended by deleting the word “written” in line four. Section 34
amended.

Section 37
amended.

30. Section 37 of the principal Act is amended—

(a) by inserting after the section designation “37.” the subsection designation “(1)”;

(b) by adding a new subsection as follows—

(2) For the purposes of this section “emergency” means any serious breakdown of plant, machinery or mine workings, or any other circumstance that could not have been reasonably foreseen and causes a hazard or danger to the health or safety of the personnel employed in a mine or which would, in the opinion of the district inspector for the district in which the mine is situated, seriously affect the production of the mine. .

Section 38
amended.

31. Section 38 of the principal Act is amended by deleting the words “in any fortnight”, in line eight and line nine of subsection (1), and substituting the words “without a break of not less than one full day”.

Section 40
amended.

32. Section 40 of the principal Act is amended by deleting subsection (5).

Section 41
amended.

33. Section 41 of the principal Act is amended by deleting the word “sixteen”, in line three of subsection (2), and substituting the word “eighteen”.

Section 42
amended.

34. Section 42 of the principal Act is amended by inserting after the word “underground”, in line four, the passage “, and no person shall accept such employment”.

Section 43
amended.

35. Section 43 of the principal Act is amended—

(a) by inserting after the section designation “43.” the subsection designation “(1)”;

- (b) by deleting the word “ten”, in line three, and substituting the word “fifty”; and
- (c) by adding a new subsection as follows—

(2) Every workman who accepts employment to work underground on a Sunday contrary to this Act shall be liable to a penalty not exceeding forty dollars for each offence.

36. Section 44 of the principal Act is amended— Section 44 amended.

- (a) by deleting paragraph (a) and substituting a new paragraph as follows—
 - (a) in repairing any shaft, main tunnel, plat, underground skip loading station and associated ore pass system, engine or machinery so that it may be in working order at the close of Sunday; ;
- (b) by inserting after the word “shaft”, in line one of paragraph (c), the words “or driving any main tunnel”; and
- (c) by deleting the word “an”, in line two of paragraph (c) and again in line one of paragraph (f), and substituting the words “a district”.

37. Section 45 of the principal Act is amended— Section 45 amended.

- (a) by deleting the word “An”, in line one, and substituting the words “A district”; and
- (b) by deleting the word “an”, in line eleven, and substituting the words “a district”.

Section 46
amended.

38. Section 46 of the principal Act is amended—

- (a) by deleting subsection (3); and
- (b) by deleting subsection (4) and substituting a new subsection as follows—

(4) The provisions of this section do not apply in relation to a hoist. .

Heading
amended.

39. The principal Act is amended by inserting after the word "DRIVERS", in the heading to Division 7, the words "AND MACHINERY OPERATORS".

Section 46A
added.

40. The principal Act is amended by inserting after section 46 a new section as follows—

Machinery
operators.

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

"certificate of competency" means any permit, licence, certificate or other document which is issued by a manager or a district or special inspector under the regulations and purports to show that the person named therein has been examined or tested and found to be competent in the operation of the machinery to which it relates, but does not include any certificate issued—

- (a) by a Senior Inspector; or
- (b) under any other Act;

"specified" means specified in the regulations as being machinery in relation to the operation of which a certificate of competency is required.

(2) Regulations may provide that no person shall take or have charge of specified machinery in a mine unless he is the holder of a certificate of competency issued by a manager or an inspector under the regulations following the examination or testing required by those regulations.

(3) An inspector shall have full power to require the immediate suspension of any person having charge of specified machinery in a mine who, in his opinion—

- (a) does not comply with the requirements of the regulations; or
- (b) should not be entrusted with the charge of that machinery,

and any manager failing to suspend such person on being required by the inspector so to do shall be guilty of an offence against this Act.

(4) Any certificate of competency issued under the regulations may be suspended by a manager, or an inspector, if any condition subject to which it was issued is contravened or not observed.

(5) Where a certificate of competency is suspended—

- (a) the suspension shall not subsist for a period of more than one month and may be revoked earlier by the manager with the agreement of the Senior Inspector;
- (b) during the period of suspension the certificate shall be deemed not to be in force;
- (c) the Senior Inspector may revoke the suspension; and
- (d) the Senior Inspector, if he is satisfied that it is in the public interest so to do, may direct that the certificate be suspended for such period as he thinks fit or shall be cancelled, and effect shall be given to that direction. .

Section 47
amended.

41. Section 47 of the principal Act is amended—

(a) as to subsection (1)—

- (i) by deleting the words “If required by the inspector”, in line one of that subsection, and substituting the words “Unless exempted in writing by the district inspector for the district in which the mine is situated”; and
- (ii) by inserting after the word “underground”, in line six, the words “and quarry”;

(b) as to subsection (2),—

- (i) by deleting the words “following any such requirement”, in line one and line two of that subsection, and substituting the words “in each year”;
- (ii) by deleting the word “underground”, in line four and line five; and
- (iii) by deleting the passage commencing with the word “December”, in line six, and ending with the word “of”, in line eleven;

(c) as to subsection (4),—

- (i) by inserting after the word “underground”, in line four of that subsection, the words “or quarry”; and
- (ii) by deleting the word “mining”, in line five, and substituting the words “licensed surveyor or an authorised mine”; and

(d) as to subsection (6),—

- (i) by deleting the word “If”, in line one of that subsection, and substituting the passage “Except where an exemption has been granted by the district inspector pursuant to subsection (1) of this section, if”;

- (ii) by deleting the passage “, after being required so to do,” in line two; and
- (iii) by inserting after the word “mine”, in line six, the words “or quarry”.

42. The principal Act is amended by inserting after section 47 a new section as follows—

Section 47A
added.

47A. (1) There shall be established under and in accordance with the regulations a body to be known as the Mines Survey Board which shall have a discretionary authority to deal with all matters connected with the making of surveys and plans of mine and quarry workings required under this Act.

Mines
Survey
Board.

(2) It shall be the function of the Mines Survey Board to advise the Minister generally on survey matters in relation to mine and quarry workings, to examine the qualifications, experience and character of persons applying for an Authorised Mine Surveyor's Certificate, to grant, suspend or cancel such certificates, and, subject to the Minister, to administer the regulations relating to the making of surveys and plans of mine and quarry workings.

43. Section 48 of the principal Act is amended—

Section 48
amended.

- (a) by deleting the word “When”, in line one, and substituting the passage “Unless exempted in writing by the district inspector for the district in which the mine is situated, when”;
- (b) by inserting after the word “mine”, in line one, the words “or quarry”;
- (c) by inserting after the word “is”, in line one, the words “to be”;
- (d) by inserting before the word “inspector”, in line four, the word “district”;

- (e) by deleting the word “working” in line four, and substituting the word “workings”; and
- (f) by inserting after the word “mine”, in line five, the words “or quarry”.

Section 49
amended.

44. Section 49 of the principal Act is amended—

- (a) by inserting after the word “mine”, in line one, the words “or quarry”;
- (b) by deleting the word “tubs”, in line four, and substituting the passage “skips, cages, kibbles”;
- (c) by inserting after the word “ropes”, in line four, the passage “, machinery”; and
- (d) by inserting after the word “report”, in line fourteen, the passage “to his immediate supervisor and, where practicable,”.

Section 51
amended.

45. Section 51 of the principal Act is amended—

- (a) by deleting the passage commencing with the word “The”, in line one, and ending with the word “thereon”, in line six, and substituting the passage “When a mine or part of a mine is to be abandoned the owner, agent or manager shall securely fence or cover in every shaft and surface winze, and securely fence, cover in or fill with rock every other surface excavation which could constitute a danger to any person”; and
- (b) by inserting before the word “inspector”, in line ten, the word “district”.

Section 53
amended.

46. Section 53 of the principal Act is amended—

- (a) by deleting the word “book”, in line one, and substituting the word “books”; and
- (b) by deleting the word “it”, in line four, and substituting the words “those books”.

47. Section 55 of the principal Act is amended— Section 55 amended.

- (a) by deleting the word “herein”, in line three;
- (b) by deleting the word “two”, in line five, and substituting the word “five”; and
- (c) by deleting the word “forty”, in line six, and substituting the words “one hundred”.

48. The principal Act is amended by inserting after section 55 a new section as follows— Section 55A added.

55A. (1) Where an offence is committed by a person by reason of his contravening, or failing to comply with, a provision of this Act by or under which he is required or directed to do any act or thing, or to refrain from doing any act or thing, that offence is deemed to continue so long as the act or thing so required or directed remains undone, or continues to be done, as the case may be. Continuing offences.

“This Act” includes regulations, see Act No. 30 of 1918.

(2) Where an offence is deemed to continue, the person who committed the offence, whether by act or omission, commits an additional offence on each day during which the offence is deemed to continue and is liable, upon conviction for such an additional offence, to the penalty provided in relation to the original offence.

(3) For the purposes of this section, a refusal or neglect to do any act or thing shall be taken to be a failure so to do.

49. Section 61 of the principal Act is amended— Section 61 amended.

- (a) as to subsection (1),—
 - (i) by deleting the word “duties”, in line one of paragraph (a), and substituting the words “appointment and functions”;

- (ii) by inserting before the word “mechanical”, in line two of paragraph (m), the words “railways or other”;
- (iii) by inserting after paragraph (m) a new paragraph as follows—
 - (ma) Dealing with all matters connected with dredging on mines. ;
- (iv) by deleting the words “the maintenance of”, in line one of paragraph (n), and substituting the words “all matters connected with”;
- (v) by inserting after paragraph (n), two new paragraphs as follows—
 - (na) Dealing with the employment, training and examination of persons having charge of machinery in or about mines.
 - (nb) Dealing with all matters connected with the issue, suspension, and cancellation of certificates, permits or other authorisations or exemptions required or permitted by this Act. ;
- (vi) by inserting after paragraph (s), a new paragraph as follows—
 - (sa) Dealing with the drainage of mines, both surface and underground, the discharge of water over land adjacent to mines, the manner in which such drainage or discharge of water shall be carried out, the persons who may or shall carry out, or permit the carrying out, of that drainage or discharge of water, the persons who shall be liable for the costs or part of the costs of

that drainage, arbitration in respect of those costs in default of agreement and the qualifications of persons who conduct such arbitrations, and proceedings in respect of the recovery of those costs and other remedies. ;

and

(vii) by inserting after paragraph (v) a new paragraph as follows—

(va) dealing with all matters connected with the health, safety and protection of persons engaged in the mining and processing of rock containing a radioactive substance. ;

(b) as to subsection (2), —

- (i) by deleting the word “section”, in line two of that subsection, and substituting the word “Act”; and
- (ii) by deleting the word “forty”, in line two of paragraph (e), and substituting the words “five hundred”;

(c) as to subsection (4),—

- (i) by deleting the words “The Governor may declare any such regulations to be General Rules and for”, in line one and line two of that subsection, and substituting the word “For”; and
- (ii) by deleting the words “such General Rules”, in line three and again in line ten, and substituting the words “the regulations applicable to that mine”;

and

(d) by deleting subsection (5).