

Act No. 75, 1901.

MINES INSPECTION. An Act to make better provision for the regulation and inspection of mines other than coal and shale mines ; to regulate the treatment of the products of such mines ; and for purposes incidental to or consequent on those objects. [28th December, 1901.]

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 :—

PART I.

PRELIMINARY.

Commencement,
short title, and
application of Act.

1. (1) This Act shall come into operation on the first day of February, one thousand nine hundred and two (which date is in this Act referred to as the commencement of this Act), and may be cited as the "Mines Inspection Act, 1901."

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

Provided that the Governor may by proclamation published in the Gazette, exempt any mine or class of mines from the operation of this Act or any of its provisions, and such exemption may be either without conditions, or during the time and on the conditions specified in the proclamation.

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2. This Act is divided into parts and divisions as follow :—

Division of Act.

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3. Subsection (3) of section sixty-four of the Mining Act, 1874 ^{Repeal.} (37 Vic. No. 13), and the Act fifty-seventh Victoria number eighteen, and the regulations made thereunder, are hereby repealed: Provided that this repeal shall not affect any exemption granted under any enactment so repealed.

4. (1) In this Act, unless the subject-matter or context ^{Interpretation of terms.} otherwise indicates,—

“Boy” means male person under the age of eighteen years.

“Division” means division of this Act.

“High explosive” means dynamite, gelatine dynamite, gelignite, rackarock, lithofracteur, or any other substance used for blasting purposes which is exploded by means of a detonator.

“Inspector”

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“Inspector” means inspector of mines under this Act, and includes the chief inspector.

“Justice” means justice of the peace.

“Mine” means and includes any place, open cut, quarry, shaft, tunnel, drive, level, or other excavation, drift, gutter, lead, vein, lode, or reef wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any metal or mineral other than coal or shale, by any mode or method, and any place adjoining thereto on which any product of the mine is stacked, stored, crushed, or otherwise treated.

“Machinery” means steam or other engines, boilers, furnaces, stampers, or other crushing apparatus, ore-reduction or concentrating plants, winding or pumping gear, whims, whips, windlasses, chains, trucks, tramways, tackle, blocks, ropes, and tools, and includes all appliances of whatsoever kind used in or about or in connection with a mine, or for the treatment of any product of a mine.

“Owner” means person who is the immediate proprietor or lessee, or occupier of a mine, or of any part thereof, and does not include a person 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 or tributer for the working of a 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.

“Manager” means person having the management of the mining operations carried on in or upon a mine.

“Plan” and “sections” include correct copies or tracings of any original plan and sections.

“Shaft” includes pit.

“The Minister” means the Secretary for Mines.

“The Under Secretary” means the Under Secretary for Mines.

“Warden” means warden referred to in or appointed under the Mining Act, 1874, or any Act amending or repealing the same.

“Chief Inspector” means the Chief Inspector of Mines.

An “inspector.”

(2) Where by this Act any notice may be given by or to, or any act may be done by an inspector in respect of a mine, and the mine is situate in a district or locality appointed, and in respect of which an

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an inspector or inspectors is or are named under this Act, such notice shall be given by or to, and such act shall be done by such inspector or any of such inspectors or by the chief inspector.

But where the mine is not so situate, the notice may be given by or to, and the act may be done by any inspector.

PART II.

MANAGERS AND ENGINE-DRIVERS.

DIVISION 1.—*Managers.*

5. (1) Every mine in which more than ten persons are employed below ground shall be under a manager, who shall reside in its vicinity and exercise daily personal supervision of and be responsible for the control, management, and direction of the mine. Appointment of manager of mine.

(2) The manager shall be the owner of the mine or some person nominated by him. Such owner shall nominate himself or some other person by written notice sent to an inspector.

(3) Subject to the provisions hereinafter mentioned, a person shall not be qualified to be a manager of a mine unless he is registered as the holder of a certificate of competency or of service as manager granted under this Act, or of a certificate approved by the board of examiners of managers.

(4) Provided that where not more than twenty persons are employed below ground in the mine it shall be sufficient for the manager to hold a permit, which the Minister is hereby authorised to grant; such permit shall remain in force for twelve months, but may be renewed from time to time by the Minister.

(5) Provided also that if there is at any time no manager of a mine qualified as required by this section, the owner 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 of obtaining by examination a certificate under this Act. In such case the owner shall send to an inspector a written notice of the manager's name and address, the date of his appointment, and of the reason for such appointment.

(6) 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 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. 6.

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Board of examiners
for managers.

6. (1) The Minister shall appoint fit persons to act as a board of examiners of managers, who may hold examinations and examine applicants for certificates of competency as managers.

The examination shall be partly in writing and partly oral; and regard shall be had to such knowledge as is necessary for the practical working of mines in New South Wales.

(2) The Minister may make rules—

- (a) regulating the proceedings of the said board;
- (b) prescribing the places and times of holding examinations;
- (c) prescribing the remuneration of members of the said board;
- (d) prescribing the fee to be paid by an applicant desiring to be examined, but so that the fee do not exceed two pounds;
- (e) regulating the conduct of examinations; and
- (f) prescribing the qualifications of applicants for examination.

And every such rule shall be observed by the said board.

Grant of certificates
of competency.

7. The Minister shall grant a certificate of competency as manager to every applicant who is duly reported by the board of examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct, and that he has had practical experience in a mine for at least three years.

Grant of certificates
of service as
managers.

8. (1) A certificate of service as manager shall be granted by the Minister to every person who satisfies such board of examiners either—

- (a) that before the commencement of this Act he was acting and has since that day acted; or,
- (b) that he has at any time within five years before the commencement of this Act for a period of not less than twelve months acted;

in New South Wales in the capacity of an inspector of mines or of a manager of a mine in which not less than twenty persons were ordinarily employed below ground:

Provided that such certificate of service may be refused to any person who fails to give full and satisfactory information as to his name, and the place and date of his birth, and as to his sobriety and general good conduct, and to pay such registration fee as the Minister may direct, not exceeding two pounds.

(2) Every such certificate shall contain particulars of the length and nature of the previous service of the person to whom the same is granted.

(3) A certificate of service granted under this section shall for the purposes of this Act have the same effect as a certificate of competency as manager granted under this Act.

Certificates granted
outside New South
Wales.

9. (1) Any certificate of competency or service as manager granted by any duly constituted and recognised authority outside
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New South Wales may be approved by the board of examiners of managers, if the holder thereof produces such certificate and gives satisfactory evidence to such board of his sobriety, general good conduct, and bona fides.

(2) Every such certificate so approved shall be equivalent in all respects to a similar certificate granted under this Act; and the holder thereof may be registered upon the payment of such fee not exceeding two pounds as the Minister may direct.

10. The certificates of competency and service as managers Form of certificates. granted under this Act shall be in such form as the Minister may direct; and every such certificate shall specify, in addition to any particulars hereinbefore in this Act required, the name, and the place, and date of birth of the person to whom such certificate is granted.

11. A register of the holders of certificates of competency or service as manager granted under this Act, and of certificates approved Register of certificates. by the board of examiners of managers, shall be kept by such person and in such manner as the Minister may direct.

DIVISION 2.—*Engine-drivers.*

12. After the expiration of six months from the commencement of this Act, any person— Penalty on unqualified person taking charge of machinery.

- (a) who is not registered as the holder of a certificate of competency or of service as an engine-driver granted under this Act or of a certificate approved by the board of examiners of engine-drivers; or
- (b) who (whether or not the holder of a certificate as aforesaid) is wholly or partially deaf, or whose sight is defective, or who is subject to fits, giddiness, or any other infirmity likely to interfere with the efficient discharge of his duties,

and who is in charge of machinery in use at any mine in which steam, water, electricity, gas, oil, or air, or any two or more of them are used as motive-power (except water-power used for pumping) and any other person who, knowing that such person is not registered as the holder of such certificate, or that he is subject to such defect or infirmity, employs any such person as aforesaid shall be guilty of an offence against this Act. Air winches, when used for work on the surface, sinking pumps, boring machines, and puddling engines, when fixed on an elevated puddling brace, shall not be deemed to be machinery within the meaning of this section.

13. (1) The Minister shall appoint fit persons to act as a board of examiners of engine-drivers, who may hold examinations and examine applicants for certificates of competency as engine-drivers. Board of examiners for engine-drivers.

(2) The Minister may make rules—

- (a) regulating the proceedings of the said board;

(b)

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- (b) prescribing the places and times of holding examinations;
- (c) prescribing the remuneration of members of the said board;
- (d) prescribing the fee to be paid by an applicant desiring to be examined, but so that the fee do not exceed two pounds;
- (e) prescribing the conduct of examinations; and
- (f) prescribing the qualifications of applicants for examination.

And every such rule shall be observed by the said board.

Grant of certificates to applicants on passing examination.

14. The Minister shall grant a certificate of competency as engine-driver to every applicant who is duly reported by the board of examiners of engine-drivers to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct.

Certificates of service for engine-drivers.

15. (1) A certificate of service as engine-driver shall be granted by the Minister to every person who furnishes to the board of examiners of engine-drivers satisfactory evidence that he has, for a period of twelve months prior to the commencement of this Act, been in charge of and has efficiently managed machinery in which steam, water, electricity, gas, oil, or air, or any two or more of them are used as motive power:

Provided that such certificate of service may be refused to any person who fails to give full and satisfactory information as to his name, and the place and date of his birth, and as to his sobriety, and general good conduct, and to pay such registration fee as the Minister may direct, not exceeding two pounds.

(2) Every such certificate shall contain particulars of the length and nature of the previous services of the person to whom the same is granted.

(3) A certificate of service granted under this section shall, for the purposes of this Act, have the same effect as a certificate of competency as engine-driver granted under this Act.

Certificates granted outside of New South Wales.

16. (1) Any certificate of competency or service as engine-driver granted by any duly constituted and recognised authority outside New South Wales may be approved by the board of examiners of engine-drivers, if the holder produces the same and gives satisfactory evidence to such board of his sobriety, general good conduct, and bona fides.

(2) Every such certificate so approved shall be equivalent in all respects to a similar certificate granted under this Act, and the holder thereof may be registered upon the payment of such fee (not exceeding two pounds) as the Minister may direct.

Certificates to contain particulars.

17. The certificates of competency or service as engine-drivers granted under this Act shall be in such form as the Minister may direct, and every such certificate shall specify, in addition to any particulars hereinbefore in this Act required, the name, and the place, and date of birth of the person to whom such certificate is granted.

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18. A register of the holders of certificates of competency or service as engine-driver granted under this Act, and of certificates approved by the board of examiners of engine-drivers, shall be kept by such person and in such manner as the Minister may direct.

Register of certificates.

DIVISION 3.—*Managers and Engine-drivers.*

19. If at any time representation is made to the Minister by an inspector that any manager or engine-driver is by reason of incompetency or 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 engine-driver, and with respect to every such inquiry the following provisions shall have effect :—

Inquiry into conduct of manager and engine-driver, and cancellation of certificate in case of unfitness.

- (a) The inquiry shall be public, and shall be held by a Court consisting of such warden as may be named by the Minister, sitting either alone or assisted by any assessor or assessors named by the Minister ; and such Court shall be held at such place as the Minister may appoint.
- (b) The Minister shall, before the commencement of the inquiry, furnish to the manager, or engine-driver 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 engine-driver may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as a witness.
- (e) Such Court shall, on the conclusion of the inquiry, send to the Minister a report containing a full statement of the case, and the decision of the Court thereon, and such report of, or extracts from the evidence, as the Court may think fit. The Minister may cause the report of the Court to be made public at such time and in such manner as he may think fit.
- (f) The Court shall have power to cancel or suspend the certificate of the manager, or engine-driver, if it finds that he is by reason of incompetency or negligence, or of his having been convicted of any offence against this Act, unfit to discharge his duty.
- (g) The Court may, if it thinks fit, require a manager, or engine-driver to deliver up his certificate, and if any manager, or engine-driver fails without sufficient cause to the satisfaction of the Court, to comply with such requirement, he shall be liable to a fine not exceeding one hundred pounds. The Court shall hold any certificate so delivered up until the conclusion of the inquiry, and shall then either restore, cancel, or suspend the certificate according to its judgment on the case.

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- (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 warden presiding, require the attendance of all such persons as it thinks fit 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; 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.

20. (1) Such 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, if he thinks fit, pay to 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 cancella-
tion of certificate;
restoration in certain
cases.

21. (1) Where a certificate of a manager or engine-driver 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 such certificates.

(2) The Minister may at any time, on the recommendation of the board of examiners of managers, or the board of examiners of engine-drivers, as the case may be, 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.

22. 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 or approved by any board of examiners under this Act, the Minister shall, on payment of such fee, if any, as he may direct, but not exceeding two pounds, cause a copy of the certificate to which the applicant appears by the register to be entitled, or a statement containing such particulars as the register may disclose (hereinafter termed "statement of particulars"), to be made out and certified by the person who keeps the register, and delivered to the applicant; and any such copy of a certificate or statement of particulars which purports to be so made and certified as aforesaid shall have the same effect as the original certificate, and for the purposes of this Act shall be deemed to be a certificate of the same nature as the original certificate.

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23. (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.

(2) All fees payable under this Act by the applicants for or holders of certificates, or for a copy of a certificate, or a certified statement of particulars, shall be paid into the Treasury as the Colonial Treasurer may from time to time direct, and be carried to the Consolidated Revenue Fund.

24. Every person who commits any of the following offences that is to say— Penalty for forgery of, or false declaration as to certificate.

- (a) forges, or counterfeits, or knowingly makes any false statement in any permit or any certificate of competency or service under this Act, or any official copy of any such certificate, or any certified statement of particulars; or
- (b) knowingly utters or uses any such permit, certificate, or copy or statement of particulars which has been forged or counterfeited or contains any false statement; or
- (c) for the purpose of obtaining for himself or any other person employment as a manager, or engine-driver, or the grant, renewal, or the restoration of any permit or certificate under this Act, or a copy of any such certificate, or a certified statement of particulars, either—
 - (I) makes or gives any declaration, representation, statement, or evidence which is false in any particular; or
 - (II) knowingly utters or uses 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.

PART III.

EMPLOYEES.

DIVISION 1.—*Wages.*

25. (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, &c.

(2) Every person who contravenes or permits any person to contravene this section shall be guilty of an offence against this Act; and in the event of any such contravention by any person whomsoever,

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whomsoever, the owner 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.

DIVISION 2.—*Restriction on employment.*

Who shall not be employed in mines.

26. (1) Boys under the age of fourteen years and females shall not be employed in or about any mine;

(2) no boy shall be employed in caging or uncaging trucks or skips on cages; and

(3) no boy shall be employed as lander or bracedman at any plat or landing-place either at or below the surface.

(4) No person not now employed in a mine shall be allowed to work in the face of the workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless accompanied by a skilled workman, or unless he shall have been previously employed for two years in or about the face of the workings of a mine.

Temporary saving for employment of minors.

27. The provisions of this Act shall not—

(a) prevent a boy under the age of fourteen years who, before the commencement of this Act, was lawfully employed in or about any mine from continuing to be employed in or about a mine; nor

(b) prevent a boy who, before the commencement of this Act, was lawfully employed above or below ground in connection with any mine from continuing to be employed above or below ground in connection with a mine; nor

(c) prevent a competent male person above the age of eighteen years who, before the commencement of this Act, was lawfully employed in charge of or to control any winding engine from continuing to be so employed.

Register of boys. Employment to be reported.

28. (1) The owner 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 may prescribe or sanction, the name, age, residence, and date of first employment of every boy employed below ground in the mine, and of every boy employed above ground in connection with the mine; and shall on request produce the register to any inspector, and to any officer of the Department of Public Instruction, at the mine, at all reasonable times, and shall allow any inspector or such officer to inspect and copy the same.

(2) The immediate employer of every boy, other than the owner 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 the manager in that behalf, that he is about to employ the boy in the mine.

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29. No person other than an owner or a person acting in the management of the mine shall be employed below ground in any mine for more than eight consecutive hours at any time nor for more than forty-eight hours in any week, except in cases of emergency.

Persons not to be employed below ground more than eight hours in any day.

30. (1) No person in charge of machinery in which steam, water, electricity, gas, oil, or air, or any two or more of them are used as a motive-power in connection with any mine or for the treatment of the products of any mine, shall be so employed for more than eight consecutive hours at any time, or for more than eight hours in any twenty-four hours, except when changing shifts at the end of the week; such period of eight hours shall be exclusive of any time occupied in raising steam or supplying air and in drawing fires and exhausting steam in connection with the machinery in the charge of such person, and of any time in which such person is employed in case of breakage, emergency, or necessity.

Regulation of employment of persons in charge of machinery, &c.

(2) Any such person who is guilty of negligence in such employment as aforesaid, by which any property is destroyed or damaged, shall be guilty of an offence against this Act.

Penalty.

31. (1) 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 time for which persons shall not be employed below ground, or to the time for which persons in charge of machinery shall not be employed, or 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.

Penalty for employment of persons in contravention of Act.

(2) And in the event of any such contravention or non-compliance by any person whomsoever, the owner 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.

(3) No person shall be deemed to be guilty of an offence against this Act for a contravention of so much of either of the two next preceding sections as relates to the time for which persons shall not be employed below ground, if such person proves that there were special circumstances to render such contravention necessary for the safe and proper working of the mine, and that such contravention was not injurious to the persons so employed in the mine.

Special circumstances.

(4) If it appears that a boy was employed on the false representation of his parent or guardian that he was of the age at which his employment would not be in contravention of this Act, and under the belief in good faith that he was of that age, the owner or manager of the mine and the immediate employer shall be exempted from any penalty, and the parent or guardian shall for the false representation be deemed guilty of an offence against this Act.

Liability for misrepresentation as to age.

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PART IV.

INSPECTION AND MANAGEMENT.

DIVISION 1.—*Inspection.*

Existing inspectors continued.

32. (1) The persons who at the commencement of this Act are acting as Chief Inspector of Mines and inspectors of mines respectively are hereby appointed respectively the Chief Inspector of Mines and inspectors under this Act.

Appointment of inspectors of mines.

(2) The Governor may appoint duly qualified persons to be inspectors of mines, and assign them their duties.

(3) Every inspector appointed by the Governor shall hold a certificate of competency or of service as manager granted under this Act or approved by the board of examiners of managers.

Appointment of districts.

33. The Governor, by proclamation in the Gazette, may appoint districts or localities within which the powers given by this Act to an inspector shall be exercised by the inspector or inspectors named therein and by the Chief Inspector, and may amend or rescind any such proclamation.

Disqualification of persons as inspectors.

34. No 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, 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 shall act as an inspector under this Act, and no inspector shall be a partner or have any interest direct or indirect in any mine in New South Wales.

Penalty as inspector divulging information.

35. Any inspector who, without the consent of the owner of the mine, divulges or makes known to any person other than the Chief Inspector, Under Secretary, or Minister, except as a witness in a Court of justice, any information obtained by him in the discharge of his duties respecting any drift, gutter, lead, vein, lode, reef, or other metalliferous or mineral deposit in any mine, except where the mine is for the time being abandoned, shall be liable to a penalty not exceeding fifty pounds, and shall be dismissed from his office.

Powers of inspector.

36. An inspector may do all or any of the following things, namely:—

- (a) make such inspection, examination, and inquiry as may be necessary to ascertain whether in respect of any mine the provisions of this Act relating to matters above or below ground are complied with;
- (b) at all times by day and night enter any mine and inspect the same and examine and inquire respecting the state and condition and ventilation of the mine or any part thereof, and the state and condition of the machinery, and the sufficiency

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sufficiency of the special rules (if any) in force therein, 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 ;

- (c) exercise such other powers as may be necessary for carrying this Act into effect.

Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner or 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 such mine, shall be guilty of an offence against this Act.

37. (1) If in any respect not provided for by 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 such mine, or in connection 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 injure the health or the body of any person, such inspector shall give notice thereof in writing to the owner or manager of the mine, and shall state in such notice the particulars in which he considers such mine or any part thereof, or any matter, thing, or practice, to be dangerous or defective, and require the same to be remedied within a period named in such notice ; and if the cause of danger is not removed or if such defect is not remedied within the period so named, the inspector may take proceedings against the owner or manager for such default, and on being satisfied that such notice was justified by the matter complained of, the Court may impose on such owner or manager a penalty not exceeding fifty pounds, and a further penalty of five pounds for every day after such decision during which such notice is not complied with.

Notice to be given of cause of danger.

(2) A copy of every notice as aforesaid shall forthwith be transmitted by the inspector to the Minister.

38. In the case of any mine, in which not less than twenty persons are employed below ground, where an inspector has given any notice in writing to the owner or manager in respect of the mode of conducting the works of such mine either above or below ground, or has given notice of any matter, thing, or practice in or connected with such mine, or with the control, management, or direction thereof which, in the opinion of the inspector, threatens or tends to injure the health or body of any person, the details of such notice shall be entered in a book to be kept at the mine for the purpose. And a statement of all acts done in conformity with or in consequence of any such notice shall also be entered in such book. All entries shall bear date of the day of entry, and shall be signed by the manager. Such book shall

Notices and directions of inspector to be entered in book.

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shall on request be produced at the mine at all reasonable times to any inspector, who may inspect and copy the same or make extracts therefrom.

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

Special report of
inspector.

39. Where in any mine an explosion or accident has caused loss of life or personal injury to any person, the Minister shall forthwith direct an inspector to make a special report with respect to the explosion or accident, and may cause the report to be made public at such time and in such manner as he may think fit.

Annual reports of
inspectors.

40. Every inspector shall make an annual report of his proceedings during the preceding year to the Chief Inspector, who shall report to the Minister, and such reports, when embodied in the annual report of the Department of Mines, shall be laid before both Houses of Parliament.

DIVISION 2.—Plans, returns, notices, and abandonment.

Plans to be furnished.

41. (1) The owner or manager of a mine at which not less than twenty persons are employed below ground within three months after the commencement of this Act in the case of a mine working at the said commencement, and, in the case of a new or abandoned mine, within three months after work has commenced in such mine, and the owner or manager of a mine at which less than twenty persons are so employed, on being ordered so to do by the Minister, by notice in writing, shall deposit in the office at the mine an accurate plan and sections of the workings of such mine, made by a duly qualified mining engineer, or by a certificated manager, or by a mining surveyor authorised by the Minister, showing the workings up to a date not more than three months previously, and shall produce such plan and sections at the mine to any inspector or to any other person duly authorised in writing by the Minister, and shall, if requested by any such inspector or other person, mark on such plan the progress of the workings of the mine up to the time of such production, and shall allow the inspector to examine and take a copy or tracing thereof.

Such plan shall, unless the Minister otherwise permits, be drawn to a scale of not less than two chains to an inch.

(2) If an inspector has reason to think that any plan produced to him as aforesaid is incorrect he shall report the fact to the Minister, who may cause a check survey to be made; and if thereupon the said plan proves to be incorrect in any material respect the owner or manager of the mine shall be liable to pay all costs and charges of making such check survey, or in connection therewith, and such costs and charges may be recovered by any inspector as a fine under this Act.

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(3) If the owner or manager of any mine of which a plan and sections are required to be deposited fails to deposit, or wilfully refuses to produce or allow to be examined or copied, the plan and sections aforesaid, or wilfully withholds any portion thereof, or wilfully refuses on request to mark on such plan the state of the workings of the mine, or conceals the plan or section of 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.

(4) An inspector may, by notice in writing (whether a penalty for such offence has or has not been inflicted), require the owner or manager to cause an accurate plan and sections of the workings to be made and deposited at the office at the mine within a reasonable time at the expense of the owner.

If the owner or manager fails, within thirty days or such further time as may be shown to be necessary after the requisition of the inspector, to make and deposit such plan and sections, he shall be guilty of an offence against this Act.

42. (1) Where any mine, of which a plan and sections are required under the provisions of this Act to be deposited, is abandoned, the person who at the time of abandonment was the owner shall, within three months after such abandonment, forward to the Minister an accurate plan and sections of the workings of such mine up to the time of abandonment.

Where mine abandoned, plans to be deposited with Minister.

(2) If the said person 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.

(3) An information for an offence under this section may be laid at any time within six months after the abandonment of the mine, or after service on the owner aforesaid of a notice by an inspector to comply with the requirements of this section, whichever last happens.

43. (1) Where in or about any mine, whether above or below ground, 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 by reason of any accident whatever, the owner 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, and shall specify in the notice the character of the explosion or accident, and the number of persons killed or injured, and in the case of injured persons a description of the injuries.

Notice to be given of accidents in mines.

(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

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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 to the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger, or would unnecessarily 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 an inspector within twenty-four hours after such death comes to the knowledge of the owner, or manager.

(4) Every owner 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.

44. In the case of any mine in which not less than twenty persons are employed below ground—

- (a) where any working is commenced for the purpose of sinking a shaft for the purpose of opening up a vein, lode, or mineral deposit; or
- (b) where the mine, or any part thereof, is abandoned, or the working thereof discontinued; or
- (c) where the working of the mine, or any part thereof, is recommenced after any abandonment or discontinuance for a period exceeding two months; or
- (d) where any change occurs in the name of such mine, or in the name of the owner or manager of such mine, or in the principal officers of any company which is the owner of such mine,

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

Abandoned mine to be protected.

45. (1) Where any mine is abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the person who, at such time, was the owner thereof shall cause the top of every shaft and every side entrance from the surface to be securely protected for the purpose of preventing accidents:

(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 in doing any such acts, he shall be guilty of an offence against this Act.

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(5) Any shaft or side entrance which is not protected 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.

(6) If any person shall, after any shaft or adit has become disused for mining purposes, wilfully damage or render useless such shaft or adit by the removal of any fencing, timbering, slabs, covering, casing, lining, ladder, platform, or other appliance provided in such shaft or adit, without the consent in writing of the Minister, he shall be guilty of an offence against this Act.

DIVISION 3.—*Boilers.*

46. (1) On the recommendation of the board of examiners for engine-drivers the Minister may grant to any inspecting and consulting engineer or boiler-maker a license authorising the holder thereof to test and examine any boiler used or to be used at or in any mine, and to give a certificate that he has inspected and examined such boiler, and that the same is in good and sufficient condition and fit for use, and may cancel any such license if it is proved to his satisfaction that the person to whom the same has been granted is incompetent or has supplied a false certificate as to the fitness for use of any boiler.

Board of examiners may grant licenses to engineers to inspect boilers and give certificates.

(2) No boiler shall be placed in position or built in at or in any mine before an inspector of mines or a duly licensed inspecting and consulting engineer has examined and passed it, or before a certificate has been given for the boiler as hereinbefore provided.

Certificate to be obtained before boiler built in.

(3) The term "boiler" means any boiler or closed vessel in which or by means of which water is heated to generate steam for working machinery at or in any mine.

Meaning of term "boiler."

DIVISION 4.—*Accidents at mines.*

47. 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 accidents in mines.

- (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 an inspector, 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 an inspector 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)

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- (d) If an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to an inspector 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 may at any such inquest 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 an inspector 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, or being a relative of any person whose death may have been caused by the explosion or accident, shall not be qualified to serve on the jury empanelled 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, or any person who, in the opinion of the coroner, might exhibit animus against the mine owner, to be sworn or to sit on the jury; nevertheless, whenever it is practicable, one-half of the jurymen shall be miners.
- (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 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 persons 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.

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

DIVISION 5.—*Lead poisoning.*

Governor may make regulations.

48. (1) The Governor may make regulations for the prevention of lead poisoning, either by inhaling the finely-powdered lead mineral in the mine or by inhaling the oxide of lead fumes from the furnaces during smelting operations, or in the conduct of any operation in connection with the obtaining of any metal or any mineral other than coal

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coal or shale, or any operations for the purpose of treating the products of any mine; and may provide therein for their enforcement by penalties not exceeding twenty pounds for each offence, and in the case of a continuing offence a further penalty not exceeding five pounds for each day that such offence continues to be committed.

(2) Such regulations shall, upon publication in the Gazette, be valid in law and have effect in such portions of the Colony as the Governor may direct.

(3) Copies of every such regulation shall be laid before both Houses of Parliament, if sitting, and if not sitting, then within fourteen days after the commencement of the next session.

PART V.

DRAINAGE OF MINES.

49. In this division, unless the context otherwise indicates:— Interpretation.
 “Alluvial lead” means deposit of detrital origin occupying an ancient drainage channel and containing any mineral other than coal or shale.

“Machinery for drainage” includes all appliances, including tunnels used or that may be used for the purpose of raising, lifting, or draining water, whether worked by steam, water, horse, or other power.

“Owner of any machinery for drainage” includes the mortgagee in possession.

50. (1) The owner of any machinery for drainage, whether erected before or after the commencement of this Act upon or near to any quartz reef or other mineral lode or any alluvial lead or other deposit containing any mineral other than coal or shale, may require the owner of any mine the workings of which have reached the natural water-level drained by such machinery to contribute a fair share of the total expense of draining or drawing the water from the mines drained by such machinery.

(2) The owner of any such machinery actually in use for raising head-water whether erected before or after the commencement of this Act upon or near to any alluvial lead may require the owner of any mine on the same lead or any branch thereof and within a distance of two miles, the workings of which mine have not reached the natural water-level, and which mine is not being worked or in which mine head-water is not being raised, to contribute a fair share of the total expense of raising head-water by such machinery.

In this section “head-water” means water derived from or accumulated in or between two or more sheets of volcanic rock or other impervious strata overlying any lead and above the natural water-level of such lead.

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(3) In default of payment of any contribution as in this section provided, or in case of disagreement respecting the amount of such contribution, the owner of such machinery may summon the owner of any such mine before a warden, who may make an order on such owner to pay such sum or sums periodically or otherwise to the owner of such machinery as the warden may think just and reasonable.

(4) The warden may in such order impose on the owner of such machinery such terms with regard to the efficient working thereof for the benefit of all parties as to such warden may seem just and order the same to be performed, or may make such other order concerning the premises as the justice and equity of the case may demand, and may annul, vary, or alter any order so made.

(5) The warden shall have all the powers and duties in relation to proceedings before him under this section as he has under the Mining Act, 1874, in relation to proceedings before him under that Act; and the provisions of that Act relating to proceedings before a warden and appeals from the decision of a warden to a mining appeal court, and appeals from such court to the Supreme Court, shall apply in respect of proceedings before and decisions by a warden under this section.

Calculation of
expense of drainage.

51. (1) The expense of the drainage effected by the owner of any such machinery shall be arrived at by calculating—

- (a) The interest on the value of the machinery and plant used for drainage purposes only.
- (b) The wear and tear of such machinery and plant.
- (c) The cost of oil, grease and packing.
- (d) The proportionate cost of fuel expended or of horses employed in drainage operations.
- (e) The wages of engine-drivers and of other persons in such proportions as such persons may be deemed to be employed in draining operations; and
- (f) Such other expense as the owner can prove has necessarily been incurred in respect of the drainage effected by any such machinery.

(2) But in determining such expense, if the whole or any part of the water raised by such machinery is used by the owner of such machinery for mining purposes, the value of such water shall be ascertained and deducted.

No drainage dues to
be demanded in
certain cases.

Mode of calculating
amount of
contribution.

52. (1) No contribution towards the expense of drainage shall be demanded for any period during suspension of draining operations.

(2) In determining what amount of contribution towards the expense of the drainage effected by the owner of any machinery shall be paid in respect of any mine, regard shall be had to the total length of reef or lode, or the extent of alluvial lead or other mineral bearing

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bearing deposit affected by the draining operations of such machinery, and to the amount of the benefit derived by the owners of mines from such operations; and the share to be contributed in respect of each mine drained shall be proportioned as nearly as may be to the length of such reef or lode, or the extent of such alluvial lead or other mineral bearing deposit contained within the land held, used, or occupied for mining purposes, and to the amount of benefit so derived.

(3) The owners of each mine liable so to contribute shall receive credit for the value of any work they perform in assisting to drain, and such value shall be added to the general expense of drainage.

Work done by owners.

53. Any order made by a warden in exercise of the jurisdiction or powers conferred by this division shall be in the form or to the effect in Schedule One, signed by the warden making the same, and shall be valid and effectual without any recital or statement to show jurisdiction; and no order of a warden under this division shall be set aside or declared invalid in any Court whatsoever for want of form.

Form of warden's order.

Schedule I.

Not to be set aside for want of form.

54. (1) Where an order of a warden under this division for the payment of money to the owner of any machinery for drainage (whether such money was ordered to be paid at one time or by instalments) is unsatisfied in whole or in part, for fourteen days or upwards, the warden who made such order or any other warden to whom a certified copy of the said order is produced may on the application of such owner of machinery issue a certificate in the form in Schedule Two or to the like effect.

Filing and enforcements of warden's order in mining appeal court of district.

Schedule II.

(2) Such owner of machinery may file such certificate with the registrar of any mining appeal court held within the mining district in which such order has been made, and thereupon execution may issue and all such proceedings be had and taken to enforce payment of the moneys mentioned in such order as upon an order of the said court.

(3) Where the said order of the warden imposes upon the owner of machinery any terms with regard to the efficient working of the machinery or otherwise, such terms may be enforced in the same manner as orders by a warden may be enforced under the Mining Act, 1874; and the warden may suspend the issue of the certificate aforesaid until the said terms have been carried out.

(4) Where such certificate has been filed with the registrar of the mining appeal court, any moneys due under the order mentioned or set out in the certificate shall, so long as any part thereof remains unpaid, become and be a charge subject to prior encumbrances upon the estate or interest of the owner in the mine in respect of which the order was made and in any land used or occupied for mining purposes in connection with such mine and upon all plant and machinery thereon; and the said warden or any other warden to whom a certified copy of such certificate is produced may by his order restrain the sale or other disposal

Certified order to be a charge on property of mine owner.

Warden may restrain sale of such property until moneys paid.

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disposal or transfer of such estate, interest, plant, and machinery, until such moneys have been paid; but this provision shall not be deemed in any way to lessen the right of seizure and sale of such mine, land, plant, and machinery, under any execution issued for the realisation of the moneys ordered in such warden's order to be paid.

PART VI.

RULES.

DIVISION 1.—*General Rules.*

General rules.

55. The following general rules shall, so far as may be reasonably practicable, be observed in every mine: Provided that the Governor, may, by proclamation in the Gazette, exempt any mine or class of mines from the operation of such rules or any of them; and such exemption may be either without conditions, or during the time and on the conditions specified in such proclamation:—

Ventilation.

(1) (a) An adequate amount of ventilation shall be constantly produced in every mine so that the shafts, winzes, levels, underground stables, and working-places of such mine, and the travelling roads to and from such working-places, shall be in a fit state for working and passing therein.

Ventilation and escape drives.

(b) All drives, by which any two mines are connected, shall, if considered necessary by an inspector, and if an inspector so directs, be kept open for ventilation and for escape drives.

(c) Workings which are not more than three hundred feet apart shall be connected by drives where such drives are by an inspector considered necessary for the purposes of ventilation and escape; and such drives shall be constructed upon the order of such inspector and at the expense of the owners of such workings, or of such of them, and in such proportions as the inspector shall direct.

Use of explosives.

(2) Notwithstanding anything to the contrary contained in the Gunpowder and Explosive Consolidation Act of 1876, gunpowder or other explosive or inflammable substance may be stored and used in a mine but shall only be so stored and used as hereinafter provided (that is to say):—

(a) It shall not be stored in the mine unless in such magazine and in such quantities as may in writing be approved of by an inspector of mines.

(b) Without such written authority it shall not be stored in the mine in any quantity exceeding what would be required for use during six working days for the purposes of the mine;

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- mine ; and if stored in the mine it shall be kept in a drive or chamber separated by a door from the working-places of the mine and in a position which an inspector of mines approves.
- (c) Explosives when taken from a magazine for use in the workings shall be conveyed direct to such workings, and shall not be taken for use into the workings of the mine except in a securely covered case or canister, of a pattern and make approved of by an inspector of mines, each of which shall contain not more than sixteen pounds of gunpowder or ten pounds of a high explosive.
 - (d) All high explosives kept for use in any mine shall be kept in the custody of the manager of such mine or of such person as he may appoint for that purpose ; and if such manager or person issues a greater quantity of such high explosive than is reasonably sufficient for use in such mine during the six days next following the time of such issue, or negligently omits to retake possession of any quantity of high explosive not so used at the end of the week's work or which at any time appears not likely to be soon required, or negligently permits any high explosive to be retained, removed, or disposed of by any other person, or if any person other than such manager or person retains, removes, or disposes of any such high explosive contrary to the provisions of this section, such manager or person shall be liable to a penalty not exceeding fifty pounds, and such high explosive may be forfeited.
 - (e) A workman shall not have in his possession at one time at any one place more explosive than is required for use on the shift on which he is employed, and except when actually in use for purposes of charging, explosives shall be placed in a safe position, and so that they cannot be struck by any material thrown out from the face.
 - (f) No person shall enter with a naked light a powder magazine or any excavation or place in a mine where powder or other explosive or inflammable substance is stored.
 - (g) No iron or steel tamping bar shall be used in any mine in charging, tamping, or ramming, and no iron or steel pricker or tamping bar shall be taken into any mine, and where a high explosive is used only wooden rammers shall be used in charging.
 - (h) No boy shall be allowed to handle explosives or charge a hole with explosives or to fire any charge of explosives.
 - (i) No drill hole shall be bored in any remaining portion of a hole in which a charge of high explosive has been previously exploded. (j)

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- (j) In all cases where the fumes arising from the explosion of any high explosive cannot be effectively dispersed by ventilation or spray of water from the mine, such fumes shall be neutralized or rendered innocuous by the person in charge of the blasting operations by the use of a spray of solution of sulphate of iron before any person is permitted to return to the sites of such blasting operations.
- (k) Persons employed in blasting with high explosives shall, when considered necessary in the opinion of an inspector, be supplied by the owner or manager with the means of thawing such compounds, and with the means of producing sulphate of iron spray when necessary.
- (l) An accurate record shall be kept by every person who is charging a hole for blasting, of the distance from the outer end of the charge to the collar of the hole. A charge of powder or other explosive which has missed fire shall not be drawn; but the tamping shall be carefully removed to a depth distant not more than twelve, and not less than six, inches from the outer end of the charge; and a fresh charge, or fresh charges, shall be inserted for the purpose of exploding the original charge, till the same be exploded; and no hole shall be bored in the neighbourhood of an unexploded charge for the purpose of exploding it by means of the explosion of a charge in the new hole.
- (m) In the event of the bottom of a hole in which a blast has been exploded remaining in any working-place, then, unless or until it can be clearly seen by two persons, one of whom, at least, is an official of the mine, that no explosive remains unexploded in such bottom, no work, whether of boring, barring down (except so far as may be absolutely necessary in order to make it safe to approach such bottom), picking, or otherwise, shall be done in such place, until such bottom has been broken away and completely exposed by a further charge or further charges inserted therein; but, for the purpose of inspection, such bottom shall be carefully cleaned out, water being freely used therein, before being finally proved to contain no explosive. This rule shall apply to all "old bottoms," wherever found.
- (n) In the event of a "miss-fire," no person shall, except in the case of a charge fired by an electric current, return to within a distance from the charge which would be unsafe in the event of its exploding until the expiration of one hour and a half from the time of the lighting of the fuse: Provided that, if the person whose duty it was to light the fuse

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fuse has good reason to believe, and does in fact believe, that he omitted to light it, then he only may return within thirty minutes. A "bulled" hole shall not be recharged within two hours of the time of explosion of the "bulling" charge, unless it is thoroughly washed or swabbed out with water, and unless, after the hole is cleaned out, a metal rod inserted and left therein for at least five minutes is at no point hot to the touch; in which case the hole may be recharged within thirty minutes.

- (o) No blast shall be fired under such circumstances that the life or lives of any person or persons may be endangered thereby.
- (3) In the case of any mine in which not less than twenty persons are ordinarily employed below ground, immediately upon it becoming known at the office at the mine that any alteration or change has been made in the composition of any on-coming shift, or how any uncertainty in that respect has been settled, full particulars of such alteration or change, or settlement, shall, with all possible despatch, be communicated to the members of the party underground. Change in shift to be communicated.
- (4) After the last shot has been fired in any working-place, and before any relief of shift, a competent person being a member of the party firing such shot shall, except in the case of a miss-fire, carefully inspect the face of such place. Inspection at change of shift.
- In the event either of any danger being found to exist, or of a shot missing fire, the fact shall be reported to the relieving shift before it comes to the face.
- The members of a relieved party shall, on proof of failure to make the inspection or the report required as afore-said, each be guilty of an offence against this Act, and be liable to a penalty of not less than two pounds, notwithstanding that such failure is the wrongful act or omission of a member or members of such party to whom the other member or members have entrusted the duty of making such report or inspection.
- (5) The manager of every mine, or such competent person or persons as he may appoint for the purpose, shall, once at least in every twenty-four hours, examine the state of all safety appliances or gear connected with the cages or shafts of the mine, and shall once in each week carefully examine the buildings, machinery, shafts, levels, planes, and all places used in the working of such mine, and shall record in writing in a book to be kept on the mine for that purpose his opinion as to their condition and safety, and as to any repairs or alterations Manager to inspect.

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alterations required to insure greater safety to the persons employed in the working of such mine; and such book shall on demand be open to perusal by any inspector; and every such safety appliance or gear if condemned by any inspector shall be forthwith removed or made fit.

Withdrawal of
workmen in case of
danger.

- (6) (a) 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 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 by the owner or manager 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 for the purpose shall be kept on the mine and accessible to workmen, and shall be signed by the person who makes the inspection.

Inspection by
representatives of
miners.

(b) If any mine or any part thereof is considered unsafe by the person or persons working therein, the persons working in such mine may, at their own cost, appoint two competent persons to examine and inspect the workings of such mine by giving twenty-four hours' notice to the manager (who may, if he thinks fit, accompany them), and all persons in the mine shall afford every facility for such inspection, and the persons so appointed shall record the results of such inspection in a book to be kept at the mine for the purpose, and the report shall be signed by the persons inspecting. And if the report states the existence or apprehended existence of any danger, the owner or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district.

Person in charge of
machinery.

- (7) No person under the age of twenty-one years shall be placed in charge of or have the control of any winding engine, and no boy shall be placed in charge of or have the control of any other steam engine or boiler used in connection with the working of any mine. No person in charge of steam machinery in connection with the working of any mine shall, under any pretext whatever unless relieved by a properly qualified and competent person, absent himself or cease to have continual supervision of such machinery during the time it is actually used in working the mine, and every winding

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- winding engine shall be in charge of a properly qualified engine-driver during the time miners are employed underground in the mine unless in any case an inspector certifies in writing that the underground workings are so shallow that the services of such an engine-driver are not necessary.
- (8) All boilers, compressors, engines, gearing and all other parts of machinery, when used for any mining purpose, or for the treatment of ores, or for the treatment of the products of any mine, shall be kept in a fit state and condition for work, to the satisfaction of an inspector. Machinery to be kept in good order.
- (9) Every fly-wheel, and all exposed or dangerous parts of the machinery, and every tramway constructed on an elevated platform and not worked by ropes shall be, and be kept, securely fenced. Fencing of machinery.
- (10) (a) Every steam-boiler coming into use after the commencement of this Act shall be provided with a proper steam-gauge and two water-gauges, to show, respectively, the pressure of steam and the height of water in the boiler, and with two proper safety-valves, one of which shall be locked. Gauges to boilers and safety-valves.
- (b) At least once in every six months every boiler shall be thoroughly cleansed, and once in every twelve months such boiler shall be subjected to an examination and hydrostatic test by a competent and properly qualified person; the test of working boilers shall be equal to one and a half times the pressure at which the safety-valve blows off, and that of new boilers double the intended working pressure. Cleansing of boilers.
- (c) Air-receivers shall be tested once in twelve months to one-third over the allowed working pressure. Air-receivers.
- (d) Steam-gauges shall be tested and adjusted once in twelve months, and no gauge shall be passed which varies more than five pounds from the standard gauge. Steam-gauges.
- (e) The date and full description of every such cleansing and test under this rule, and of any repairs to or alterations in any boiler, air receiver, or gauge, shall be entered in a book (to be kept on the mine) by the engineer in charge, or by the manager where no such engineer is employed on the mine, or by an engine-driver or braceman, and the entries in such book shall, on demand, be open to perusal by any inspector. Record in book kept in mine.
- (11) The smoke from every boiler for generating steam, and from every furnace used in any part of the underground workings of a mine, shall not be allowed to escape into any part of such workings, nor in any manner other than by means of an air-tight flue conducting such smoke directly from the boiler Smoke not to be allowed to escape into working

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Means of signalling
for working shafts.

or furnace into a shaft cut in the rock up to the surface of the ground to the open air, or built up to the surface as aforesaid, in such manner as to be completely air-tight.

- (12) Every working shaft in which a cage is used, and every division of such shaft in which persons are raised and lowered, and every shaft in which appliances worked by steam machinery are used, shall be provided with guides and some proper means of communicating distinct and definite signals—

(a) from the bottom of the shaft and from and between every entrance for the time being in work between the top and the bottom of the shaft to the top, and thence to the engine-room; and

(b) from the engine-room and top to the bottom of the shaft, and to and between every entrance for the time being in work between the top and the bottom of the shaft.

Such signal line shall be so balanced as to be easily worked by hand without the aid of a lever.

Verbal signals.

No verbal signals or communications shall be made up or down a shaft exceeding twenty yards in depth in which cages are used except through speaking tubes or telephones in a compartment of such shaft not used for hoisting.

Danger-signal line.

A line or some other appliance shall be provided in each shaft to admit of danger signals being communicated to the engine-driver from any portion of such shaft.

Clear view for
engine-driver.

- (13) A clear view shall be kept for the engine-driver between his station and the shaft or tunnel or adit at the surface entrance and brace.

Signalling along
drives in alluvial
mines.

- (14) Whenever any underground work is being performed in alluvial mines at greater distances than two hundred feet from the shafts, proper means shall be provided for communicating along the lower drives of such mines, distinct and definite signals to and from the plats at the bottom of the shafts, and to and from places in which men may be at work.

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

- (15) Every underground plane on which persons travel which is self-acting or worked by an engine, windlass, whim, whip or gin shall be provided (if exceeding thirty yards in length) with some proper means of signalling between the stopping places and the ends of the plane, and shall be provided in every case at intervals of not more than twenty yards with man-holes for places of refuge of such size and number as an inspector may deem sufficient.

Employees to be
acquainted with
signals.

- (16) Every person employed in a mine shall make himself acquainted with the systems and codes of signals provided in such mine in accordance with these rules.

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- (17) The code of signals to be used in any mine or class of mines shall be such as may be prescribed by the Minister. Code of signals.
- (18) Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided at intervals of not more than one hundred yards with sufficient spaces or places of refuge, each of which shall be of sufficient length and of at least three feet in width between the waggons running on the tramroad and the side of the road. Man-holes for other traveling roads.
- (19) When a shaft is being sunk in rock formation, and blasting operations are necessary, short cross-drives or man-holes shall be formed at depths of every two hundred feet for use by miners as places of refuge during the occurrence of blasts, and access to such man-holes shall be provided by the use of suitable ladders from the bottom of the shaft to the surface affording access to each man-hole. Man-holes in shafts.
- (20) Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall so place anything in a man-hole or such space as to prevent access thereto. Man-holes to be kept clear.
- (21) All entrances between the bottom of every working or pumping shaft and the poppet-head pulley wheels, and all elevated platforms where bars or automatic or safety doors are erected or self-acting catches are used, shall be properly and securely fenced, railed, or covered, but this provision shall not be taken to forbid the temporary removal of any fence or cover for the purpose of repairs or other operations if proper precautions are used; and every abandoned or disused shaft or dangerous excavation shall be fenced or securely covered in by the owner or manager, and the position of such covered shaft shall be indicated on the surface by a post with a notice thereon affixed. Fencing of entrances to shafts, and of abandoned shafts or dangerous excavations.
- (22) At all plats where hauling operations are carried on, doors or some other approved appliance shall be fixed. In the case of doors a lever or handle shall be attached whereby the said doors can be safely lowered into position or raised without possible danger to the person performing the duty. Doors at plats.
- (23) When a fence or cover has been temporarily removed from any entrance to a shaft to admit of the performance of ordinary mining operations, two strong horizontal bars shall be securely fixed across such entrance not less than two nor more than four feet from the floor of the brace chamber or drive, as the case may be. Horizontal bar to be provided when fence or cover is temporarily removed.
- (24) Every working or pumping shaft shall be securely cased, lined, or otherwise made secure; for which purpose an ample supply of sound timber if necessary shall be kept on the ground ready for use. Securing of shaft.

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- Drive and excavation to be protected. (25) Every drive and every excavation of any kind in connection with the working of a mine shall be securely protected and made safe for persons employed therein.
- Protected lights to be used in main drives. (26) Suitable lights effectually protected from draughts of air shall be provided for the use of persons in every working plat and in the main drives of any mine; and the upper entrance to every winze, rise, or jump-up, while open or unfenced, shall be illuminated by a fixed light.
- Division of shaft. (27) Where one portion of a shaft is used for the ascent and descent of persons by ladders or a man-engine and another portion of the same shaft is used for raising material, the first-mentioned portion shall be cased or otherwise securely fenced off from the last-mentioned portion, and where the shaft exceeds one hundred feet in depth, shall have a division between buckets ascending and descending.
- Cages in shafts—cover overhead. (28) (a) Every shaft exceeding two hundred feet in depth where engine power is used for winding shall be provided with a cage, and such cage shall have a sufficient cover overhead when used for lowering or raising persons in any working shaft; such cage cover shall be at least six feet six inches above the floor of the cage, and shall be constructed of iron not less than three-sixteenths of an inch or of steel not less than one-quarter of an inch thick, and shall be securely hung on hinges and fitted with sloping sides so as to be readily lifted upwards by persons within the cage.
- What may not be carried in cages. (b) No tools, iron, timber, rails, sprags, or other material, or explosives shall be taken up or down the shaft in the same cage with any person: Provided that this shall not be held to prevent the person having the custody of an explosive or explosives from riding in the same cage with such explosive or explosives.
- Cover overhead. (c) Except when a shaft is being repaired, all persons working or being lowered or raised therein shall be protected overhead from falls of material down such shaft by means of a roof or other suitable appliance.
- Saving. (d) Nothing in this rule contained shall prevent the use of buckets or skips during the sinking of shafts or winzes or for raising or lowering mining material, mine products, or debris.
- Cages to be provided with safety catches and hooks. (29) (a) Every cage used in a mine shall be fitted with special and suitable appliances to prevent its sudden fall down a shaft, and also a safety hook with suitable detaching appliances fixed to the poppet heads to prevent it coming into contact with the poppet heads; and no safety hook shall be used that will not suspend a cage at the poppet head when detached from the ropes. (b)

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- (b) All detaching and suspending hooks and safety catches shall, at least once in every month, be taken to pieces, examined, cleaned, and oiled by a competent person, who shall record the fact in a book to be kept at the mine for the purpose. Monthly examination of catches and hooks.
- (c) There shall be not less than ten feet of clearance between the detaching hooks and the point of detachment when the cages are at the landing. Space between hooks and point of detachment.
- (30) No safety-cage shall be used at any mine unless and until it has been tested by the manager, in the presence of an inspector, if available, and proved to his satisfaction to be supplied with proper appliances, and to be in fit working order and condition; the manager or engineer in charge at the mine shall test the cages from the drums at least once in every month and enter the result in the record book to be kept at the mine for the purpose. Safety-cage to be tested.
- (31) Before any rope or chain is used in the shaft of a mine it shall be tested at the mine, and proved to be equal to carrying twice the weight of the ordinary load which shall consist of the cage truck and contents and weight of rope from bottom of shaft to pit-head pulley, and the working load shall not be more than one-eighth of the breaking strain of rope, and in mines where men are lowered or raised in shafts the ropes and chains used for such purposes shall at such intervals as an inspector may require be tested to carry twice the weight of the ordinary load. Before any ropes (including capstan ropes) are used for winding in a mine the owner or manager shall obtain a certificate from the manufacturer or his agent showing their breaking strain, and such certificates shall be available at the office at the mine for the perusal of the inspector. Rope or chain to be tested.
- (32) Gates or some other approved appliance shall be used in all shafts where hauling is done with cages. Such gates shall be secured to the sole plates of the plat sets, so that they can be easily placed over the shaft and raised without any trouble, and shall be fixed to the satisfaction of an inspector. Gates in haulage shafts.
- (33) When chains are employed as couplings to cages or tanks, two single-linked chains of uniform size shall be used to each coupling. Coupling chains.
- (34) There shall be attached to every machine worked by steam, water, or mechanical power erected after the commencement of this Act and used for lowering or raising persons, if considered necessary by an inspector, an adequate brake or other sufficient appliance in addition to that on the fly-wheel, fitted to each winding drum in such a manner that it can be applied by the engine-driver without leaving the starting handle of the
the

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- the engine, and also a dial or indicator (in addition to any mark on the rope) to show to the person who works the machine the position of each of the cages or loads in the shaft.
- (35) When men are being lowered or raised in any shaft by means of machinery the rate of speed for the descent or ascent within fifty feet of the surface or bottom, as the case may be, shall not exceed three hundred feet in each minute of time.
- (36) In any shaft exceeding twenty feet in depth in which cages are not used, no person shall descend or ascend by the aid of machinery unless, in addition to the use of the loop, crossbar, or other appliance, he is securely stayed to the rope employed for lowering or raising in such shaft by a strap or other fastening passing round the body under the arms; and such method of staying shall be used by every person who finds it necessary in the execution of his duty to descend or ascend a shaft on top of the cage covers.
- (37) 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.
- (38) Automatic or self acting doors or tumblers of a suitable kind shall be affixed to the skids or guides below the poppet heads of every shaft in which a cage is used to prevent the fall of such cage down the shaft when detached from the rope or chain by overwinding, and such automatic or self acting doors or tumblers shall be surrounded by proper platforms and hand-railings, and at every plat or level where trucks are removed on or off the cage while in the shaft such shaft shall be fitted with bearers or gates securely fixed to the sole piece of the plat set with strong hinges, and loose wooden bearers shall not be used.
- (39) A whip shall not be used for the sinking of shafts or for lowering or raising men unless two-thirds of the shaft is covered by a pent house.
- (40) Every brace or pit bank shall have adequate protection provided for the workmen from the inclemency of the weather.
- (41) No open-hook shall be used with a bucket in hoisting but only in such form of grip-hook or shackle-hook, as may be sanctioned in writing by an inspector.
- (42) Every mine, but not necessarily every shaft, shall have, in addition to any mechanical means of ingress and egress, at least one proper ladder or foot way communicating from the surface to the workings. Suitable ladder or foot ways shall be provided to connect floors of sets in stopes, and other places requiring communication, in a mine.

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- (43) A ladder permanently used for the ascent or descent of ^{Ladders.} persons in the mine shall not be fixed in a vertical or overhanging position except in shafts used exclusively for pumping, and shall be inclined at the most convenient angle which the space in which the ladder is fixed allows. Every ladder-shaft shall have substantial platforms or sollars at intervals of not more than thirty feet. The space between the rungs in a ladder, provided after the commencement of this Act, shall not exceed twelve inches. The rungs of a ladder shall in no case be less than five inches from the wall of the shaft. A suitable fixture for a hand grip shall be placed above each ladder for the use of persons ascending or descending.
- (44) Ladders, and when necessary convenient platforms connected ^{Ladder-ways between levels.} therewith, shall be provided in each rise, jump-up, or passage giving access to working at a higher level in a mine, and a notice shall be posted at the foot of each such rise, jump-up, or passage, stating the height of such rise, jump-up, or passage to the chamber or drive above :
- Provided that in the case of mines in which not less than fifty persons are ordinarily employed below ground, there shall be at least one additional ladder-way to connect each level with the one above it. The sufficiency for furnishing means of escape, of such ways, in regard to their position in the mine, and in all other respects shall be determined in each case by an inspector.
- (45) (a) In every working in a mine approaching a place likely ^{Boring-rods.} to contain a dangerous accumulation of water or noxious or inflammable gas, boring-rods shall be kept and used for the purpose of perforating the ground twenty feet in advance in alluvial mines, and ten feet in quartz mines of or near or at any angle from such working ;
- (b) no drive, gallery, or other excavation shall be made within a dangerous distance of such accumulation of water or gas ; and
- (c) safety-lamps shall be provided for the use of persons whilst employed in or near any place where there is reason to suspect the presence of inflammable gas.
- (46) In every alluvial mine which, in the opinion of an inspector, ^{Alluvial mines—escape drives.} is liable to any inundation or inburst of water such additional rises, chambers, drives, and other workings, or any of them shall be constructed as may seem necessary, and as may be ordered by the Minister for the escape of persons from the lower workings, or to insure their safety in every such mine during the period of any inundation or inburst of water in such mine.

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- Dressing room. (47) If more than four persons are employed in the mine below ground in one shift sufficient accommodation shall be provided above ground near the principal entrance of the mine but not in the engine-house or boiler-house for enabling the persons employed in the mine to conveniently dry and change their dresses ; and in no case shall any person be allowed to change his dress upon a boiler.
- Angle of batter in open cuts. (48) The batter of an open cut shall be at such an angle as, taking into consideration the surrounding conditions, shall, in the opinion of an inspector, be safe.
- Under-mining of face of open cut. (49) When work is being carried on in any open cut, no stoping shall be carried out within one hundred feet of the bottom of such open cut for a distance horizontally either way of two hundred feet. When operations in an open cut are completed, mining operations may be carried on under such open cut ; but in no case shall open cut and stoping operations be carried on at the same time within one hundred feet in depth of one another.
- Stretchers. (50) Where more than twelve persons are ordinarily employed underground, ambulances or stretchers, with splints and bandages, shall be kept in the mine ready for immediate use in case of accident.
- Observance of directions. (51) Every person shall observe such directions with respect to working as may be given to him with a view to a compliance with this Act or the special rules (if any) in force in the mine.
- Books and copies thereof. (52) The books mentioned in these rules shall be provided by the owner or manager, and the books, or a correct copy thereof, shall be kept at the office on the mine, and any inspector 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 has ceased to be used for making 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.
- Wilful damage. (53) No person shall wilfully damage, or, without proper authority, remove or render useless any timber, fencing, casing, lining, guide, means of signalling, signal cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act.
- Power to amend and repeal general rules, and to make new general rules. **56.** (1) The Governor may—
 (a) amend or repeal any or all of the general rules hereinbefore set out ; and (b)

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- (b) make general rules dealing with—
- (i) the ventilation and construction of mines and mining works ;
 - (ii) the management and supervision of mines ;
 - (iii) the drainage of mines ;
 - (iv) the storage and use of explosives in or about mines ;
 - (v) the nature, maintenance, examination, and inspection of all machinery used in or about mines ;
 - (vi) any other matter dealt with in the general rules hereinbefore set out ; and all other matters whatsoever involved in or connected with the control and working of mines, and of works in which mineral is reduced, smelted, refined, or otherwise treated, whether such works are immediately connected or not with any mine.

(2) All such amendments, repeals, and all such general rules shall be published in the Gazette, and shall take effect from a date to be named therein ; and a copy thereof shall be laid before both Houses of Parliament forthwith if sitting, and if not sitting, then within fourteen days after the commencement of the next session.

(3) After the date named in the Gazette as aforesaid, such rules shall, so far as may be reasonably practicable, be observed in and about every mine in the same manner as if they were enacted in this Act:

Provided that the Governor may, by proclamation in the Gazette, exempt any mine or class of mines from the operation of any such rule.

57. Any person who contravenes or does not comply with any ^{Non-compliance} of the general rules hereinbefore set out, or any of such rules as ^{with rules.} amended, or any general rule made under this Act, shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever in the case of any mine, the owner 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 rules as regulations for the working of the mine so as to prevent such contravention or non-compliance.

DIVISION 2.—*Special Rules.*

58. (1) An inspector may by notice in writing require such ^{Special rules for} rules (referred to in this Act as special rules) to be established for the ^{certain mines.} conduct and guidance of the persons acting in the management of any 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.

(2)

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(2) Such special rules, when established, shall be signed by the Chief Inspector, and shall be observed in and about the mine to which they refer (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 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 as regulations for the working of the mine, so as to prevent such contravention or non-compliance.

(4) If special rules have been established for any mine, and subsequently thereto a change occurs, either in the name of such mine or in the ownership of such mine, such special rules shall, notwithstanding the aforesaid change, be and continue to be the special rules of such mine, until they are amended or new rules are established under the provisions of this Act.

Establishment of special rules.

59. (1) The owner or manager of any mine, if so required as aforesaid, shall within three months after the receipt by him of such request, frame and transmit the special rules to an inspector, for approval by the Chief Inspector.

(2) The proposed special rules, together with a printed notice stating 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 an inspector, at the 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) The proposed special rules, the objections (if any), and the certificate, in the preceding subclause mentioned, shall be transmitted by the inspector, with his report thereon, to the Chief Inspector.

(4) If the rules are not objected to by the Chief Inspector within thirty days after their receipt by the inspector, they shall be established.

The Chief Inspector may object to special rules.

60. (1) If the Chief Inspector 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 thirty days after the rules are received by

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

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

(3) If the owner or manager sends his objection in writing within the said twenty days to the Chief Inspector, the matter shall be referred to the Minister for decision, and the rules shall be established in accordance with and from the date of the decision of the Minister.

61. (1) After special rules are established under this Act in any mine, the owner, or manager of the mine may, from time to time, propose in writing to an inspector, for the approval of the Chief Inspector, 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.

(2) The Chief Inspector may, from time to time, propose in writing to the owner 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 Chief Inspector for modifying the special rules transmitted by the owner, 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.

62. If the owner 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 any mine are not transmitted within the time limited by this Act to an inspector for the approval of the Chief Inspector, the owner 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.

63. An inspector shall, when required, certify a copy shown to his satisfaction to be a true copy of any special rules established under this Act in any mine, and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules, and of the fact that those rules are duly established under this Act and have been signed by the Chief Inspector.

Certified copy of special rules to be evidence.

64. The Governor may make and publish in the Gazette a set of special rules for any mine, and thereafter the rules so made and published shall be deemed the special rules of such mine: 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.

Special rules made by the Governor.

DIVISION

*Mines Inspection.*DIVISION 3.—*Publication of rules.*

Publication of
abstract of Act and
copy of special rules.

65. For the purpose of making known the provisions of this Act and the special rules (if any) to all persons employed in and about a mine, an abstract of this Act supplied, on the application of the owner or manager of the mine, by an inspector, and a correct copy of the special rules (if any) shall, if deemed necessary by an inspector, be published as follows:—

- (a) The owner or manager of the mine shall cause the abstract of the Act and copy of the rules (if any), with the name of the mine and the name of the owner and of the manager 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 therein; and so often as such abstract or copy becomes defaced, obliterated, or destroyed, shall cause it to be renewed with all reasonable despatch.
- (b) The owner or manager shall, on request, supply a printed copy of the abstract and the special rules (if any) gratis to each person employed in or about the mine.

In the event of any non-compliance with the provisions of this section the owner and manager 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 observance of this section to prevent such non-compliance.

Pulling down or
defacing notices.

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

PART VII.

LEGAL PROCEEDINGS AND MISCELLANEOUS.

DIVISION 1.—*Legal Proceedings.*

Penalty for offences
against Act.

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

(2) 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 or manager, fifty pounds, and if he is any other person, five 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.

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68. Where an owner, or 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.

69. (1) All offences under this Act not declared to be misdemeanours, and all fines under this Act, and all moneys and costs by this Act directed to be recovered as fines, may be prosecuted and recovered before any justice being a warden, in accordance with the provisions of the Acts in force for the time being regulating proceedings on summary convictions before justices.

Summary proceedings for offences, fines, &c.

(2) Summary orders under this Act may be made on complaint before any justice being a warden.

(3) Any information or complaint made or laid in pursuance of this Act shall (save as otherwise expressly provided by this Act) be laid or made within three months from the time when the matter of the information or complaint came to the knowledge of the person laying or making the information or complaint.

General provisions as to summary proceedings.

(4) At the hearing of any such information or complaint, the justice shall, if required by either party, take or cause to be taken minutes of the evidence, and shall cause the same to be preserved.

70. If any person feels aggrieved by any conviction under this Act, he may appeal therefrom in like manner as any other conviction by justices may be appealed from.

Appeal.

71. (1) Where an offence has been committed, for which the owner or manager of a mine is liable under this Act, but which has not personally been committed by such owner or manager, no proceedings for such offence shall be instituted against such owner or manager except by an inspector or with the consent in writing of the Minister.

Prosecution of owners, managers, &c.

(2) An inspector shall not institute any prosecution under this Act against the owner or manager or an employee of a mine if satisfied that he had taken all reasonable means to prevent the commission of the offence.

(3) No prosecution shall be instituted against a coroner for any offence under this Act, except with the consent in writing of the Minister.

72. Where the owner or manager of a mine has taken proceedings under this Act against any person employed in or about a mine

Report of result of proceedings against workmen.

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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 an inspector.

Saving for proceedings under other Acts.

73. (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: Provided that no person shall be punished twice for the same offence.

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

Application of fines.

74. 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 direct such fine to be paid to or distributed among the persons injured, and the relatives of any person 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.

Service of notices.

75. 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 or sent by post by a registered letter.

DIVISION 2.—Miscellaneous.

Decision of question whether a mine is under this Act.

76. 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.

Government Geologist and Geological Surveyors may enter mines.

77. The Government Geologist and the Geological Surveyors may enter any mine at all reasonable times and examine the mine or any part thereof.

Powers of Minister as to making and revoking orders.

78. Any order or exemption authorised by or under this Act to be made or granted by the Minister may be made and granted, 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 the Under Secretary.

79.

Mines Inspection.

79. (1) Every person employed in or about any mine shall before commencing and whilst at work, satisfy himself of the safety of any skips, chains, tackle, windlass, ropes, or other appliances he may be required to use, and in case of any defect or insecurity he shall cease to use the same until made safe.

Employees to inform employers of breaches of Act

(2) Every such person who witnesses, in or about any mine, any circumstance, matter, or thing which may be likely to be a cause of danger of any kind shall immediately notify the same to the person (if any) under whose immediate direction or control he is.

(3) Every person in sub-charge of and employed in mining operations in any part of a mine shall, on changing his shift, inform the person appointed to relieve him of the state of the workings in the part of the mine in which he has been employed: Provided that nothing in this clause shall relieve any owner, manager, or inspector of any of their responsibilities incurred under this Act.

80. (1) Where the manager of any company claiming to be legally or equitably interested in any land adjoining or near to any mine, or of any person so claiming, alleges by affidavit, taken before any Justice or Commissioner for affidavits, that the owner of such mine is believed by the person making such affidavit to be encroaching upon such land, the Minister may, by writing under his hand, authorise an inspector, together with a mining surveyor or experienced miner, to enter such mine and land for the purpose of ascertaining whether any such encroachment has been made, and if so the extent thereof. But before granting such authority the Minister shall require a deposit to be made of such a sum of money not exceeding one hundred pounds as, in his opinion, will be necessary to cover the cost of such inspection.

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

(2) The persons so authorised may thereupon enter such mine and land and descend any shaft or enter any mine therein, and use the engines and other machinery ordinarily employed for that purpose, and make such plans and sections of the mine and land entered and of any drives or other works therein as may be considered necessary; and the owner and manager of any such mine shall render all necessary assistance to the persons so authorised.

What may be done under such authority.

(3) Every person so authorised shall, before entering such mine or land, make a statutory declaration before any person authorised to take the same 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, 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 as aforesaid.

Prior statutory declaration required.

(4) Any owner or manager who refuses such assistance, and any person who acts contrary to such declaration, shall be liable to a fine not exceeding ten pounds.

(5)

Mines Inspection.

Provision for cost
of inspection.

(5) The Minister may, out of the sum deposited as aforesaid, defray the cost of such inspection, and if the owner and manager of the mine render such assistance as 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.

SCHEDULES.

Section 53.

SCHEDULE I.

In the mining district of

In the matter of the Mines Inspection Act, 1901.

Owner of machinery, and

Owner of mine at [*here insert place of mine*].

I [A.B.], a warden, having proceeded under the provisions of the Mines Inspection Act, 1901, to ascertain and determine what would be the fair share to be borne by the said [*here name of owner of mine*] of the total expense of draining or drawing the water from the mines drained by the machinery of the said [*the name of owner of machinery*], do hereby assess the same at [*here state amount and whether in one sum or in various sums at various periods, such periods to be stated*]: And I do order the said [*name of owner of mine*] to pay the same moneys to the said [*name of owner of machinery*] in respect of the land or ground occupied or used by the said [*name of owner of mine*] at [*place of mine*] and known as [*describe mine*]. And I order that the said money be paid as follows [*here state time or times of payment, and if considered desirable by warden, place of payment, as a bank or otherwise*]: And I impose the following terms upon the said [*name of owner of machinery*] [*here state the terms imposed*]: And I order compliance with this order by the several parties herein named and all those claiming or deriving title through them.

Dated this day of

A.B., Warden.

Section 54.

SCHEDULE II.

In the mining district of

To the registrar of the mining appeal court at

In the matter of the Mines Inspection Act, 1901.

I [A.B.], warden, certify that I did on the day of A.D. 19
make an order in the following terms [*here set out copy of warden's order*].

Dated this day of

A.B., Warden.