

COAL MINES REGULATION (AMENDMENT) ACT.

Act No. 19, 1964.

Elizabeth II. No. 19, 1964

An Act to make further provisions for the regulation and management of mines of coal and mines of shale; for this and other purposes to amend the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, and the Mining Act, 1906, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 12th May, 1964.]

BE

BE it enacted by the Queen's Most Excellent Majesty, by No. 19, 1964 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Coal Mines Regulation (Amendment) Act, 1964".

Short title and citation.

(2) The Coal Mines Regulation Act, 1912, as amended by subsequent Acts and by regulations made under sections 56B and 65B of that Act, as so amended, and by this Act, may be cited as the Coal Mines Regulation Act, 1912-1964.

(3) The Coal Mines Regulation Act, 1912, as amended by subsequent Acts and by regulations made under sections 56B and 65B of that Act, as so amended, is in this Act referred to as the Principal Act.

2. (1) Part I of the Principal Act is amended—

Amendment of Act No. 37, 1912.
Part I.
(Mines Regulation.)

(a) (i) by omitting from the definition of "Agent" in subsection one of section three the words "or of any part thereof";

Sec. 3.
(Interpretation of terms.)

(ii) by inserting in the same subsection next after the definition of "Court" the following new definition:—

"Deputy chief inspector" means the Deputy Chief Inspector of Coal Mines or the inspector for the time being acting as deputy chief inspector.

(iii) by omitting from the definition of "Inspector" in the same subsection the word "electrical";

(iv) by inserting in the same definition after the word "twenty-six" the words "or section 26A";

(v)

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(v) by omitting from the definition of "Mine" in the same subsection the words "but does not include any open cut working" and by inserting in lieu thereof the following words :—

and so much of the surface including buildings, structures and works thereon (whether complete or in the course of construction or erection) surrounding or adjacent to the shaft or outlets of the mine as is occupied together with the mine for the purpose of or in connection with the working of the mine, the treatment, preparation for sale, consumption or use, storage or removal from the mine of the minerals or products thereof obtained from the mine, or the removal from the mine of the refuse thereof, or the health, safety or welfare of persons employed in, at or about the mine but does not include buildings erected or in the course of erection for residential purposes or any open cut working;

(vi) by inserting in the same subsection at the end of the definition of "Open cut working" the following words :—

, and so much of the surface including buildings, structures and works thereon (whether complete or in the course of construction or erection) surrounding or adjacent to the open cut working as is occupied together with the open cut working for the purpose of or in connection with the working of the open cut, the treatment, preparation for sale, consumption or use, storage or removal from the open cut of the minerals or products thereof obtained from the open cut, or the removal from the open cut of the refuse thereof, or the health, safety or welfare of persons employed in, at or about the open cut working but does not include buildings erected or in the course of erection for residential purposes.;

(b)

(b) (i) by inserting in subsection two of section six **No. 19, 1964** after the word "board" the words "to be called **Sec. 6.**
the Coal Mining Qualifications Board"; **(Certificates**
of competency.)

(ii) by inserting in the same subsection after paragraph (d) the following word and new paragraph :—
; and
(e) one person who is a member of the faculty of engineering of a university in New South Wales.

(iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—
(3) The members of the board shall be appointed by the Minister for a specified term but all such appointments shall be subject to the following provisions :—
(a) the maximum period of any appointment shall be seven years;
(b) retiring members shall be eligible for re-appointment;
(c) no person shall be appointed to or remain a member of the board after attaining the age of sixty-five years;
(d) any or all of the members of the board may be removed by the Minister at any time during the term of their appointment.
(e) by omitting from section seven the words "board appointed under this Act" and by inserting in lieu thereof the words "Coal Mining Qualifications Board"; **Sec. 7.**
(Rules by Minister as to examinations.)

(d) by omitting from section 8A the words "board for appointing examiners" and by inserting in lieu thereof the words "Coal Mining Qualifications Board"; **Sec. 8A.**
(Certificates of competency or of service.)

(e) by omitting from subsection (1A) of section thirteen the words "board constituted under subsection two of section six of this Act" and by inserting in lieu thereof the words "Coal Mining Qualifications Board"; **Sec. 13.**
(Engine drivers' certificates granted outside New South Wales.)

(f)

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Sec. 21.
(Certificates
of com-
petency
as mine
electricians.)

Sec. 22.
(Employ-
ment of
mine
electricians.)

Sec. 23.
(Chief
Inspector
and Senior
Inspectors.)

Sec. 24.
(Appoint-
ment of
officers.)

- (f) by omitting from section twenty-one the words "board for appointing examiners constituted under section six subsection (two) of this Act" and by inserting in lieu thereof the words "Coal Mining Qualifications Board";
- (g) by omitting from subsection five of section twenty-two the words "one month" and by inserting in lieu thereof the words "fourteen days";
- (h) (i) by omitting from subsection one of section twenty-three the word "two" and by inserting in lieu thereof the words "a Deputy Chief Inspector of Coal Mines and such number of";
- (ii) by omitting from the same subsection the words "each of whom" and by inserting in lieu thereof the words "as he thinks fit. The deputy chief inspector";
- (iii) by omitting subsection two of the same section;
- (i) (i) by omitting from subsection three of section twenty-four the word "mines" and by inserting in lieu thereof the word "collieries";
- (ii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—
 - (4) Every inspector including the Chief Inspector of Coal Mines, the Deputy Chief Inspector of Coal Mines and every Senior Inspector of Collieries shall be an inspector under this Act, and the inspector of a district means, in relation to any matter or thing concerning a mine, the inspector who is for the time being assigned to the district or portion of New South Wales in which the mine is situated.
- (iii) by inserting in subsection five of the same section after the word "inspector" the words "referred to in subsection four of this section";
- (j)

(j) by omitting from section twenty-five the words **No. 19, 1964** "inspector of mines" and by inserting in lieu thereof the word "inspector"; **Sec. 25.** (Disqualification of persons as inspectors.)

(k) by inserting in subsection one of section twenty-six after the words "person as" the words "senior electrical inspector or"; **Sec. 26.** (Appointment of electrical inspector.)

(l) by inserting next after section twenty-six the following new section:— **New sec. 26A.**

26A. (1) The Governor may, subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, and the limitations imposed by subsection two of this section, appoint any person as an inspector of mechanical engineering and such person shall in relation to the installation and use of any mechanical equipment and the construction, erection and maintenance of any buildings and structures have all the powers vested in an inspector by section twenty-seven of this Act.

(2) Any person appointed as an inspector of mechanical engineering in accordance with the provisions of subsection one of this section shall be the holder of a degree or diploma in mechanical engineering from the University of Sydney, the University of New South Wales or other educational body approved by the Department of Mines or a qualification recognised by the Department of Mines as equivalent to any such degree or diploma.

(m) by omitting section twenty-seven and by inserting in lieu thereof the following section:— **Subst. sec. 27.**

27. (1) An inspector shall, for the purpose of the execution of this Act, have power to do all or any of the following things, that is to say:— **Powers of inspectors. (cf. 2 & 3 Eliz. II, c. 70, s. 145.)**

(a) at any time (whether by day or by night) to enter a mine and to inspect the whole or any part thereof, anything thereat and any animals employed for the purposes thereof; **(b)**

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

(i) to ascertain whether, so far as regards a mine or persons or animals employed thereat, the following are complied with, namely the provisions of this Act, any direction, prohibition or restriction given or imposed by a notice served under or by virtue of this Act by an inspector and any condition attached to an exemption, consent, approval or authority granted or given under or by virtue of this Act; and

(ii) to ascertain any matter appearing to the inspector to affect or relate to the safety or health of persons employed at a mine or the care or treatment of animals employed thereat and in particular (but without prejudice to the generality of the foregoing words) the causes and circumstances of any accident or other occurrence at a mine, being in either case one of which notice is required by this Act to be given;

(c) for the purpose of any examination or inquiry under the foregoing provisions of this subsection—

(i) to require any person whom he finds at a mine, or whom he has reasonable cause to believe to be, or to have within the preceding two months been, employed at a mine, to answer, in the absence of persons other than a person nominated by him to be present and any persons whom the inspector may allow to be present,

present, such questions as the inspector thinks fit to ask, but no answer given by a person in pursuance of a requirement imposed under this subparagraph shall be admissible in evidence against him in any proceedings except proceedings for an offence under paragraph (b) of subsection two of this section;

- (ii) to take samples of any articles or substances found at, or of the atmosphere in, a mine; and
- (iii) to take possession of any machinery, apparatus or other article whatsoever at a mine which appears to him to have caused, or to be likely to cause, danger to safety or health and cause it to be dismantled, removed or subjected to any process or test, notwithstanding that it is thereby damaged or destroyed;
- (d) to require the production of, and to inspect—
 - (i) any registers, books, plans or other documents which by virtue of this Act are required to be kept; and
 - (ii) any other documents, being documents which are in the possession or under the control of the owner, agent or manager of a mine and are relevant for the purposes of an examination or inquiry under the foregoing provisions of this subsection;
- (e) to require the manager of a mine to mark or cause to be marked on any plan of workings in the mine produced in compliance with a requirement imposed under paragraph (d) of

of this subsection any matter referred to in subsection one of section thirty-five of this Act;

- (f) to require any person having responsibilities in relation to a mine (whether or not the owner, agent, manager or any other person employed thereat) to give him such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him by this subsection;
- (g) to exercise such other powers as may be necessary for carrying this Act into effect;
- (h) to enter upon any land other than a mine in the performance of his duties under the foregoing provisions of this subsection.

(2) A person who—

- (a) wilfully fails to comply with any requirement imposed by an inspector under this section; or
- (b) in giving any answer required of him by an inspector makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (c) wilfully prevents, or attempts to wilfully prevent, any other person from appearing before an inspector or from answering any question to which an inspector may, by virtue of subsection one of this section, require an answer; or
- (d) wilfully removes, without permission granted by an inspector, from a mine or conceals or tampers with, any machinery, apparatus or other article of which possession has been taken by an inspector under subsection one of this section; or

(e)

(e) wilfully obstructs an inspector in the exercise or performance of his powers or duties,

shall be guilty of an offence against this Act.

(n) by omitting section twenty-eight and by inserting Subst. sec. 28. in lieu thereof the following section :—

28. (1) If any inspector is of the opinion that Notice by a mine or any part thereof or any matter, thing or practice at a mine or in connection with the control or management of a mine is or is liable shortly to become dangerous to the safety or health of persons employed at the mine or any of them, he may serve on the owner, agent or manager a notice stating that he is of that opinion and giving particulars of the reason why he is of that opinion and imposing upon the owner, agent or manager such prohibitions or restrictions of whatsoever kind and whether conditional or otherwise, as appear to the inspector to be necessary for the purpose of safeguarding the safety or health of the persons employed at the mine.

Any such notice shall remain in force until it is confirmed, varied or revoked by the chief inspector pursuant to subsection four of this section.

(2) A copy of such notice shall be forwarded forthwith by the inspector to the chief inspector.

(3) If the owner, agent or manager objects to compliance with any prohibition or restriction imposed under subsection one of this section he may state his objections in writing to the chief inspector setting out the reasons therefor.

(4) The chief inspector may confirm, vary or revoke the notice. If the notice is revoked by the chief inspector the prohibitions or restrictions imposed by the inspector shall have no further force

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force or effect. If the chief inspector confirms or varies the notice, it shall have force as so confirmed or varied until any determination in relation to the notice is made by the court under this section.

(5) An owner, agent or manager who objects to compliance with the prohibitions or restrictions imposed by the notice as so confirmed or varied by the chief inspector, or who has not, within seven days after he has so objected, been served with a notice by the chief inspector confirming, varying or revoking the notice served on him under subsection one of this section, may refer the matter to the court to be determined.

(6) If the owner, agent or manager fails to comply with the prohibitions or restrictions imposed on him by any notice in force under this section or with any order of the court upon a determination of a reference to the court made under subsection five of this section, he shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred pounds for every day such failure continues.

Sec. 33.
(Court of
Coal Mines
Regulation.)

(o) (i) by omitting subsections one and (1A) of section thirty-three and by inserting in lieu thereof the following subsection :—

(1) There shall be a Court of Coal Mines Regulation which shall be a court of record with jurisdiction to hear and determine inquiries, appeals and references under this Act without regard to any territorial limits imposed upon the jurisdiction of a judge of the court by or under any other Act.

(ii) by omitting from subsection two of the same section the words "stipendiary magistrate or police magistrate";

(iii) by omitting from subsection three of the same section the words "or courts of petty sessions";

(iv)

- (iv) by omitting from the same subsection the No. 19, 1964 words "the Courts" and by inserting in lieu thereof the words "the Court";
- (v) by omitting from the same subsection the words ", in any case in which a declaration under subsection (1A) of this section has been made";
- (vi) by omitting subsection nine of the same section;

(p) (i) by omitting from subsection one of section Sec. 35. thirty-five the words "and limits of any tidal (Plan of waters within the said boundary" and by inserting in lieu thereof the following words ^{mine to be kept at office.}) and new paragraph :—

impounded waters and any other natural feature whether of the same or of a different kind or nature which, if disturbed by mining operations, is likely to cause damage to or danger in the mine and the limits of any tidal waters within ten chains of any part of the colliery holding.

The plan shall also show—

- (a) the position at the said date of any barriers provided pursuant to the provisions of section 38A of this Act or any condition contained in any lease granted under the Mining Act, 1906, as amended by subsequent Acts;
- (b) survey information sufficient to establish the position of any barriers so provided; and
- (c) the position of any barriers required to be provided pursuant to that section or any such condition and within one-half of a mile of the workings.

(ii)

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(ii) by inserting at the end of subsection (1A) of the same section the words "and shall also show—

- (a) the position at the said date of any barriers provided pursuant to the provisions of section 38A of this Act or any condition contained in any lease granted under the Mining Act, 1906, as amended by subsequent Acts;
- (b) survey information sufficient to establish the position of any barriers so provided; and
- (c) the position of any barriers required to be provided pursuant to that section or any such condition and within one-half of a mile of the workings.";

Sec. 35A.
(Plans to be
furnished.)

(q) (i) by inserting in subsection one of section 35A after the words "plan of the" the words "lands within the colliery holding of such mine which are";

(ii) by omitting from the same subsection the words "and within the colliery holding of such mine" and by inserting in lieu thereof the words "or which are lands in which such owner has the right to mine for coal or shale or to carry out mining purposes in connection with mining for coal or shale";

(iii) by inserting in the same subsection after the words "of title to the" the words "freehold or leasehold";

(iv) by inserting at the end of the same subsection the words "and particulars of the nature of any such right";

(v) by inserting in paragraph (a) of subsection two of the same section after the words "freehold or leasehold lands" the words "or the acquisition or cessation of the right to mine for coal or

or shale or to carry out mining purposes in No. 19, 1964 connection with mining for coal or shale in any lands within the colliery holding";

- (vi) by inserting in the same paragraph after the words "any such" the words "freehold or leasehold";
- (vii) by inserting at the end of the same paragraph the words "and in the case of the acquisition of any such right, particulars of the nature of the right";
- (viii) by inserting in paragraph (b) of the same subsection after the words "disposed of" the words "or in respect of which a right to mine for coal or shale or to carry out mining purposes in connection with mining for coal or shale is acquired or ceases";
- (ix) by inserting next after the same subsection the following new subsection :—

(2A) Where any mine was opened before the commencement of the Coal Mines Regulation (Amendment) Act, 1964, or any colliery holding was varied before such commencement, the owner, agent or manager shall, unless the Under Secretary for Mines upon application made in that behalf otherwise determines, furnish to the Under Secretary for Mines within three months after such commencement such plans or descriptions and particulars referred to in subsection one or two of this section, as the case may be, as he would have been required to furnish if such mine had been opened or such colliery holding varied after such commencement, except such of those plans or descriptions and particulars as he may have furnished before such commencement.

- (x) by omitting from subsection three of the same section the words "freehold and leasehold lands within" where firstly occurring;

(xi)

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- (xi) by omitting from the same subsection the words "of title";
- (xii) by omitting from the same subsection the words "subsection one of";
- (xiii) by inserting next after paragraph (b) of the same subsection the following new paragraphs :—
 - (c) upon the refusal of any application for a lease under the Mining Act, 1906, as amended by subsequent Acts, of any land within a colliery holding;
 - (d) upon any determination under subsection three of section 70E of the Mining Act, 1906, as amended by subsequent Acts, taking effect;
 - (e) upon any land ceasing to form part of a colliery holding by reason of the operation of subsection four of this section;
- (xiv) by omitting from the same subsection the words "amend the register" and by inserting in lieu thereof the words "cause the register to be amended";
- (xv) by inserting next after the same subsection the following new subsection :—
 - (4) If at any time the Under Secretary for Mines has reason to believe that subsection two of this section has not been complied with in so far as it applies to the disposal of or cessation to have the right to mine or to carry out mining purposes in the whole or any part of the freehold and leasehold and other lands within a colliery holding he may by notice require the owner, agent or manager to furnish to him the plan or description and particulars referred to in the said subsection two and specified in the notice. If default is made in complying with such notice within one

one month after the service of such notice **No. 19, 1964** or within such further time as the Under Secretary for Mines may allow the land specified in the notice shall thereupon cease to form any part of the colliery holding.

(r) (i) by inserting in subsection one of section thirty- Sec. 36. six after the word "shall," where firstly (Notice to occurring the words "immediately after be given of becoming aware of such explosion, injury or accidents in mines.) accident report it to an inspector and a check inspector, and shall";

(ii) by inserting at the end of the same subsection the following new paragraph :—

In paragraph (b) of this subsection "serious personal injury" includes any injury prescribed by regulations made under this Act.

(s) (i) by inserting in section 36A after the words Sec. 36A. "gassy place," the following words :— (Certain occurrences to be reported.)
or
any abnormal outburst of inflammable or noxious gas; or;

(ii) by omitting from the same section the words "within twenty-four hours after such occurrence has taken place, report the same to an inspector" and by inserting in lieu thereof the words "immediately after becoming aware such an occurrence has taken place report it to an inspector and a check inspector. Within twenty-four hours next after the occurrence he shall send notice of the occurrence to the inspector of the district";

(iii) by inserting at the end of the same section the following new paragraph :—

In this section "serious personal injury" includes any injury prescribed by regulations made under this Act.

(t)

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New secs.
38A and 38B.Barriers to
be provided.

(t) by inserting next after section thirty-eight the following new sections:—

38A. (1) (a) The owner, agent or manager of a mine shall not work or cause to be worked any seam of coal in the mine without leaving a barrier of the prescribed width against the external boundaries of the colliery holding in which the mine is situated.

(b) In paragraph (a) of this subsection “the prescribed width” means a width of one chain or such other distance as the Minister may, by order in writing given to the owner, agent or manager, fix.

(c) An order fixing a greater width than one chain shall not be made under paragraph (b) of this subsection except where the Minister is of opinion that the order is necessary to ensure the safety of the employees in the mine to which the order relates and in any other mine adjoining that mine.

(d) In making an order under paragraph (b) of this subsection, the Minister—

(i) may fix a width in respect of any seam or portion of a seam within a mine and specified in the order or in respect of all seams within a mine specified in the order, or all seams within a mine so specified other than those so specified; and

(ii) shall so fix a width in respect of that seam that such barrier, or such barrier in conjunction with any barrier in an adjoining colliery holding, shall be not less than two chains.

(2) (a) The owner, agent or manager of every mine shall, within a period of three months after any barrier is provided in the mine pursuant to the provisions of this section or any conditions contained

contained in a lease granted under the Mining Act, **No. 19, 1964** 1906, as amended by subsequent Acts, cause a survey to be made of the faces of the workings along such barrier, which survey shall show a surveyed connection to, and a comparison of azimuth with, a measured portion in a plan recorded in the Department of Lands or the Department of Mines or to a subdivision portion of a deposited plan registered at the office of the Registrar-General.

(b) Where—

- (i) any barrier in a mine provided pursuant to the provisions of this section or any such condition adjoins any such barrier already provided in any other mine;
- (ii) a survey of the faces of the workings along the barrier in such other mine has been made and was connected to a measured portion in a plan recorded in the Department of Lands or the Department of Mines or to a subdivision portion of a deposited plan registered at the office of the Registrar-General; and
- (iii) such survey is shown in any tracing forwarded to the Under Secretary for Mines under subsection (1A) of section thirty-five of this Act,

the survey of the faces of the workings along the barrier in such firstmentioned mine shall be connected to the same datum to which the survey referred to in subparagraph (ii) of this paragraph was connected.

(3) Where after the commencement of the Coal Mines Regulation (Amendment) Act, 1964, any workings in a mine encroach into any barrier required

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required to be provided pursuant to this section or any conditions contained in any lease granted under the Mining Act, 1906, as amended by subsequent Acts, the Minister may if he considers it necessary to do so in order to ensure the safety of the employees in the mine or in any mine adjoining that mine by order in writing given to the owner, agent or manager of the mine, require such works as he thinks fit within such time as may be specified in the order.

(4) Immediately after any variation in a colliery holding occurring, the owner, agent or manager of any mine within the colliery holding shall give notice of such variation to the Minister.

(5) Upon the written application of the manager of a mine, the Minister may, on the recommendation of the chief inspector, grant permission in writing, subject to such conditions as the Minister considers necessary, to work any barrier provided pursuant to this section.

(6) Nothing in this section shall be construed as affecting any conditions contained in any lease granted under the Mining Act, 1906, as amended by subsequent Acts, whether before or after the commencement of the Coal Mines Regulation (Amendment) Act, 1964.

(7) Every owner, agent or manager who fails to comply with the provisions of subsection one of this section or with any order made under subsection three of this section shall be guilty of an offence against this Act and liable to a fine not exceeding one hundred pounds and in addition, in the case of any such order, to a further fine not exceeding one hundred pounds for every day during which he fails to comply with such order.

38B. (1) At least thirty days before the No. 19, 1964 commencement of any mining operations beneath, or within ten chains of, the vertical boundary of any tidal waters, impounded waters, river, stream, swamp, dam, reservoir or other natural feature whether of the same or of a different kind or nature which, if disturbed by mining operations, is likely to cause damage to or danger in a mine, the owner, agent or manager shall give notice to the inspector of the district of his intention to carry out and the methods to be adopted in carrying out such mining operations.

Mining
under tidal
waters, etc.

(2) The Minister may, whether or not a notice has been served on the inspector of the district under subsection one of this section, by order in writing given to the owner, agent or manager of any mine direct that no mining operations shall be carried out in such mine beneath, or within ten chains of, the vertical boundary of any tidal waters, impounded waters, river, stream, swamp, dam, reservoir or other natural feature referred to in subsection one of this section except in accordance with such methods as may be specified by the Minister in such notice.

(3) Nothing in this section shall be construed as affecting any conditions contained in any lease granted under the Mining Act, 1906, as amended by subsequent Acts.

(4) Every owner, agent or manager who fails to comply with the provisions of subsection one of this section or—

(a) where no order under subsection two of this section has been given to him in relation to the carrying out of mining operations, carries out any such operations otherwise than in accordance with the methods specified in the notice given to the inspector of the district under subsection one of this section; or

(b)

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—

- (b) where any such order has been given to him, carries out any such operations otherwise than in accordance with the methods specified in any such order,

shall be guilty of an offence against this Act and shall be liable to a fine not exceeding one hundred pounds and in addition for every day on which mining operations are carried out otherwise than in accordance with such specified methods shall be liable to a further fine not exceeding one hundred pounds.

Sec. 39A.
(Accuracy
of plans to
be certified.)

- (u) by omitting from subsection two of section 39A the words "board for appointing examiners constituted under subsection two of section six of this Act" and by inserting in lieu thereof the words "Coal Mining Qualifications Board";

Sec. 41.
(Boys under
sixteen and
females.)

- (v) by omitting subsection two of section forty-one and by inserting in lieu thereof the following subsection :—

(2) Notwithstanding anything contained in subsection one of this section, boys not under the age of fifteen years may be employed as apprentices or as probationary apprentices above ground and females may be employed in the main office of a mine or in any other surface work, but any employment pursuant to the provisions of this subsection shall be subject to the consent of the Minister.

New
sec. 53BA.

- (w) by inserting next after section 53B the following new section :—

Bord-and-
pillar
system of
working
to be used.

53BA. (1) No method of working other than the bord-and-pillar system shall be used in any mine except with the consent of the Minister and subject to such conditions as he may stipulate by order in writing given to the owner, agent or manager.

(2)

**(2) In any mine in which the bord-and- No. 19, 1964
pillar system of working is used, the following pro-
visions shall have effect :—**

**(a) The percentage of coal or shale to be left
in the pillars during construction of the
bords, cut-throughs, headings or other
workings shall be—**

- (i) not less than fifty per centum where
the depth of the seam from the sur-
face does not exceed two hundred
feet;**
- (ii) not less than fifty per centum nor
more than sixty per centum where
the depth of the seam from the sur-
face exceeds two hundred feet but
does not exceed five hundred feet;**
- (iii) not less than sixty per centum nor
more than seventy per centum where
the depth of the seam from the sur-
face exceeds five hundred feet but
does not exceed one thousand feet;
and**
- (iv) not less than seventy per centum nor
more than eighty-five per centum
where the depth of the seam from
the surface exceeds one thousand
feet but does not exceed two
thousand feet.**

(b) The width of the pillars shall be—

- (i) not less than eight yards where the
depth of the seam from the surface
does not exceed two hundred feet;**
- (ii) not less than twelve yards where the
depth of the seam from the surface
exceeds two hundred feet but does
not exceed five hundred feet;**
- (iii)**

- (iii) not less than eighteen yards where the depth of the seam from the surface exceeds five hundred feet but does not exceed one thousand feet; and
- (iv) not less than twenty-six yards where the depth from the surface exceeds one thousand feet.
- (c) The bords, headings and cut-throughs shall not exceed six yards in width.
- (d) Where the seam being worked exceeds sixteen feet in thickness, the coal and shale or coal or shale shall not be extracted to a height greater than fourteen feet except with the consent of the Minister.
- (e) In respect of any part of a mine, the Minister may, on the recommendation of the chief inspector, approve or order a variation in the size of bords, cut-throughs, headings and pillars.
- (f) Pillars shall not be removed without the approval in writing of the Minister.

(3) Nothing in this section shall be construed as affecting any conditions contained in any lease granted under the Mining Act, 1906, as amended by subsequent Acts, whether before or after the commencement of the Coal Mines Regulation (Amendment) Act, 1964.

(4) Any owner, agent or manager may appeal to the court against any refusal of the Minister to consent to the use in a mine of any method of working other than the bord-and-pillar system or against any conditions imposed by the Minister pursuant to subsection one of this section.

Any

Any order of the court made on any such appeal **No. 19, 1964** shall be final and shall be given effect to notwithstanding any other provision of this section.

(5) If any person fails to comply with any of the provisions of this section or any order of or conditions imposed by the Minister thereunder or, if there be an appeal, with any order of the court, the owner, agent and manager shall be guilty of an offence against this Act but it shall be a good defence to a prosecution pursuant to the provisions of this subsection if any owner, agent or manager so prosecuted proves that he had taken all reasonable means to avoid any such failure by publishing and, to the best of his power, enforcing such provisions, orders and conditions.

(x) by inserting at the end of section 53C the following Sec. 53C.
new paragraph :—
(Protective equipment.)

No person shall be underground in any mine unless he is wearing a suitable safety helmet.

(2) The amendment made by paragraph (h) of subsection one of this section shall be deemed to have commenced on the first day of February, one thousand nine hundred and sixty-two.

(3) The amendments made by paragraphs (n) and (o) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. Part II of the Principal Act is amended—

Amendment
of Act No.
37, 1912.
Part II.
(Rules.)

(a) (i) by omitting from general rule three of section Sec. 54.
fifty-four the words "Any mechanical con- (General
trivance introduced underground for auxiliary rules.)
ventilation

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ventilation shall be installed, used and maintained in accordance with the requirements of the inspector and shall not be used to replace the main ventilating system." and by inserting in lieu thereof the following words :—

The manager shall give notice to the inspector of his intention to introduce underground any mechanical contrivance for the purpose of assisting the ventilation of any part of a mine and any such mechanical contrivance shall be installed, used and maintained in accordance with the requirements of the inspector and shall not be used to replace the main ventilation system.

(ii) by omitting general rule twenty-four of the same section and by inserting in lieu thereof the following general rule :—

Inspection
of main
return
air-ways.

Rule 24. Every main return air-way in a mine which is not ordinarily used for travelling shall be maintained in a condition safe for travelling and a deputy shall travel the whole of such air-way at least once in each week and ascertain the conditions thereof as to ventilation and general safety and shall make and sign a true and full report with regard to the same in a book to be kept at the mine for the purpose. The manager shall cause guide boards or notice boards to be erected and maintained wherever necessary along the return air-way or take such other means as may be necessary to ensure that the route of such return air-way is indicated in a clear manner. The Minister may grant exemption from compliance with the provisions of this rule on written application being made by the owner, agent or manager.

(iii)

(iii) by omitting from general rule 24A of the same No. 19, 1964 section the words "Where the return air-way affords a second means of egress from any district in a mine to the surface and is not ordinarily used for travelling, the deputy supervising in such district shall travel the whole of such air-way at least once in each week and ascertain the condition thereof as to ventilation and general safety, and shall make and sign a report with regard to same in a book to be kept for the purpose." and by inserting in lieu thereof the following words :—

Where the return air-way from any district in a mine is not ordinarily used for travelling, it shall be maintained in a condition safe for travelling and the deputy supervising such district shall travel the whole of such air-way at least once in each week and ascertain the condition thereof as to ventilation and general safety and shall make and sign a true and full report with regard to the same in a book to be kept at the mine for the purpose.

(iv) by omitting from the same general rule the words "to the second outlet" and by inserting in lieu thereof the words "of such return air-way";

(v) by inserting at the end of the same general rule the following new paragraph :—

The Minister may grant exemption from compliance with the provisions of this rule on written application being made by the owner, agent or manager.

(b) by omitting from section 56A the words and symbols Sec. 56A.
" (iii) the provisions of this subsection shall only (Provisions as to travelling on haulage roads, &c.) apply to mines in which more than twenty persons are employed.";

(c)

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Sec. 56B.

(Power of Governor to make regulations.)

(c) by inserting next after paragraph (d) of subsection one of section 56B the following new paragraph :—

(e) make regulations for or with respect to—

(i) the provision, construction, maintenance and equipment of workshops in any mine and all buildings, rooms and installations whether above or below ground at any mine not being buildings, rooms or installations in respect of which provision is made elsewhere in this Act in relation to their construction, maintenance or equipment;

(ii) exempting persons from compliance with any regulations made under subparagraph (i) of this paragraph.

Amendment of Act No. 37, 1912.

Part III.
(Supplemental.)Sec. 68.
(General penalty.)

4. Part III of the Principal Act is amended—

(a) by omitting subsection two of section sixty-eight;

Sec. 70.
(General provisions as to summary proceedings.)

(b) by omitting from paragraph (b) of section seventy the words "Such complaints shall be made in the court of petty sessions of the police district in which the said mine to which the said complaint refers is situated and the Justices Act, 1902, shall apply to all such proceedings : Provided that by the consent of the parties the said complaint may be heard by another court of petty sessions.".

5. The Principal Act is further amended—

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**Amendment
of Act No.
37, 1912.**

- (a) by omitting from the Second Schedule the words "Second board for appointing examiners" and by inserting in lieu thereof the words "Coal Mining Qualifications Board";
- (b) (i) by omitting from paragraph (a) of subclause two of clause one of the Eighth Schedule the figures "24";
- (ii) by inserting at the end of the same paragraph the words "where the expression 'to mine' occurs in section 35A of the Act; and";
- (iii) by inserting in subclause one of clause three of the same Schedule after the word "Court" the words "Deputy Chief Inspector";
- (iv) by inserting at the end of clause fourteen of the same Schedule the word and figures "and 26A";
- (v) by omitting clause fifteen of the same Schedule and by inserting in lieu thereof the following clause :—

15. Section 27 modified by omitting from subparagraph (ii) of paragraph (c) of subsection one the words "or of the atmosphere in";

- (vi) by inserting in paragraph (a) of clause nineteen after the word "dams" the words "impounded waters and any other natural feature whether of the same or of a different kind or nature which, if disturbed by mining operations, is likely to cause damage to or danger in the open cut working,";
- (vii) by inserting in the same paragraph after the word "situated" the words "and the limits of any tidal waters within ten chains of any part of the said colliery holding";

(viii)

(viii) by inserting in the same clause next after paragraph (a) the following new paragraphs :—

(aa) Subsection (1A) of the same section modified by omitting the words "and shall also show—";

(ab) The same subsection modified by omitting paragraphs (a), (b) and (c).

(ix) by omitting from paragraph (b) of the same clause the figure and symbols "(1A),";

(x) by omitting from clause twenty-two the words "within twenty-four hours after such occurrence has taken place report the same to an inspector" and by inserting in lieu thereof the words "immediately after becoming aware of any such occurrence report it to an inspector and a check inspector. Within twenty-four hours next after the occurrence he shall send notice of the occurrence to the inspector of the district.";

(xi) by inserting at the end of the same clause the words "In this section 'serious personal injury' includes any injury prescribed by regulations made under this Act.";

(xii) by inserting next after clause twenty-three the following new clause :—

23A. Section 38B.

(xiii) by inserting at the end of clause thirty-four the following new paragraph :—

No person shall be in any part of an open cut working in which he is likely to be exposed to injury from flying coal, stone or other material unless he is wearing a suitable safety helmet.

(xiv)

(xiv) by inserting next after subclause (c) of clause No. 19, 1964 thirty-seven the following new subclause :—

(cc) by omitting from subparagraph (i) of paragraph (e) the words “whether above or below ground;”.

6. (1) The Mining Act, 1906, as amended by subsequent ^{Amendment of Act No. 49, 1906.} Acts, is amended—

- (a) by omitting from subsection one of section 70E the words “herein referred to” and by inserting in lieu thereof the words “situated within a colliery holding affected by any such application”;
- (b) by inserting in the same subsection after the words “such colliery holding” the words “or upon any other lands within such colliery holding in which such owner has the right to mine for coal or shale or to carry out mining purposes in connection with mining for coal or shale, where”;
- (c) by omitting from the same subsection the words “title of which lands” and by inserting in lieu thereof the words “such colliery holding”;
- (d) by omitting from the same subsection the figures “-1947” and by inserting in lieu thereof the words “, as amended by subsequent Acts”;
- (e) by inserting in subsection three of the same section after the word “leasehold” wherever occurring the words “and other”.

(2) The Mining Act, 1906, as amended by subsequent Acts and by this Act, may be cited as the Mining Act, 1906-1964.
