

Act No. 21, 1904.

An Act to amend the Mines Inspection Act of 1901; to make provision for the appointment of check weighman or check clerk, and the payment of such check weighman or check clerk; and to provide for weighing in certain cases. [10th December, 1904.]

MINES INSPECTION
AMENDMENT.

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

1. This Act may be cited as the "Mines Inspection Amendment Act of 1904," and shall be read and construed as one with the said Act.

2. Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, such persons shall be paid according to the actual weight gotten by them of the mineral contracted to be gotten, and the mineral gotten by

Mines Inspection Amendment.

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

Appointment on the part of men of check weigher or check clerk.

3. The persons who are employed in a mine, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station persons, in this Act referred to as a check weigher and check clerk, at each place appointed for the weighing or checking the weight of the mineral in order that they may, on behalf of the persons by whom they are so stationed, take a correct account of the weight of the mineral. Such check weigher and check clerk shall be authorised to require that the process of weighing shall be carried on continuously throughout the working hours during the whole time that the mine is drawing mineral.

Check weigher to have facilities to examine and weigh.

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

Check weigher or check clerk not to impede work.

5. A check weigher or check clerk shall not be authorised in any way to impede or interrupt the working of the mine, or to interfere with the weighing or with any of the workmen, or with the management of the mine, but shall be authorised only to fulfil the duties of the two preceding sections, and the absence of a check weigher or check clerk from the place at which he is stationed shall

Mines Inspection Amendment.

shall not be a reason for interrupting or delaying the weighing, but the same shall be done by the persons appointed in that behalf by the owner, agent, or manager, unless the absent check weigher or check clerk had reasonable grounds to suppose that the weighing would not be proceeded with: Provided always that nothing in this section shall prevent a check weigher or check clerk giving to any workman an account of the mineral gotten by him, or information with respect to the weighing or the weighing machine, or the taring of the skips, or any other matter within the scope of their duties as check weigher or check clerk, so that the working of the mine be not interrupted or impeded.

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

How check weigher or check clerk may be removed for misconduct.

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

Case in court.

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

Powers of court.

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

Impeding check weigher or check clerk.

10. (1) Where a check weigher or check clerk has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral

Remuneration of check weigher or check clerk.

Navigation Amendment (Regulations).

mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine and so paid his proportion of the check weigher's or check clerk's wages or recompense, notwithstanding that any of the persons by whom the check weigher or check clerk was appointed may have left the mine or others have entered the same since the check weigher's or check clerk's appointment any rule of law or equity to the contrary notwithstanding.

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

Method of payment.

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