

MINES RESCUE (AMENDMENT) ACT.

Act No. 35, 1962.

Elizabeth II, No. 35, 1962 An Act to make further provision in relation to rescue operations in coal and shale mines and the equipment and buildings used in those operations; to amend the Mines Rescue Act, 1925-1955, in certain respects; and for purposes connected therewith. [Assented to, 7th December, 1962.]

BE it enacted by the Queen'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 :—

Short title,
citation
and com-
mencement.

1. (1) This Act may be cited as the "Mines Rescue (Amendment) Act, 1962".

(2) The Mines Rescue Act, 1925, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Mines Rescue Act, 1925-1962.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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2. (1) The Principal Act is amended—

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Amendment
of Act No.
3, 1925.

- (a) (i) by omitting from the matter relating to Part II in subsection three of section one the figures "13" and by inserting in lieu thereof the figures and letter "13A"; Sec. 1.
(Short title
and com-
mencement.)
- (ii) by omitting from the matter relating to Part V in the same subsection the figures and letters "ss. 19-26" and by inserting in lieu thereof the figures and letters "ss. 18A-27";
- (b) (i) by inserting in section two immediately before the definition of "Breathing apparatus" the following new definitions :— Sec. 2.
(Interpre-
tation.)
- "Act" includes regulations.
- "Approved" means approved by the chief inspector.
- (ii) by omitting from the definition of "Breathing apparatus" in the same section the words "by the Minister";
- (iii) by inserting immediately before the definition of "Committee" in the same section the following new definition :—
- "Chief inspector" has the meaning ascribed thereto in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.
- (iv) by omitting from the same section the definitions of "Inspector" and "Mine" and by inserting in lieu thereof the following definitions :—
- "Gas mask" means an apparatus which will protect the wearer from noxious and poisonous gases present in an otherwise respirable atmosphere, and is of a type for the time being approved.

"Inspector"

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“Inspector” means the chief inspector or an inspector of collieries appointed under the provisions of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

“Manager” means a person who is manager of a mine as required by section four of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts.

“Mine” has the meaning ascribed thereto in the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, and includes an open cut working within the meaning of that Act, as so amended.

(v) by inserting next after the definition of “Regulations” in the same section the following new definitions :—

“Shale” means oil shale.

“Smoke helmet” means an apparatus, not being a breathing apparatus, used for enabling the wearer to breathe in an irrespirable atmosphere by means of fresh air supplied from a fresh air base, and which is of a type for the time being approved.

Sec. 3.
(Applica-
tion of Act.)

(c) by omitting subsection two of section three and by inserting in lieu thereof the following subsection :—

(2) The Minister may exempt from all or any of the provisions of this Act any mine if the mine is so situated or the circumstances are such that the application of all or any of the provisions of this Act are not, in the opinion of the Minister, reasonably practicable, or if in the opinion of the Minister adequate provision is made for rescue purposes in or about the mine by the owner of the mine.

(d)

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- (d) by omitting section four and by inserting in lieu thereof the following section :—

Subst.
sec. 4.

4. Where an explosion, fire, accident or other occurrence whereby life or property is or is likely to be endangered has taken place or where rescue operations involving the employment of the members of a rescue corps or rescue brigade are in progress in a mine or part of a mine, any person who unless authorised by the manager or official appointed by the manager for the purpose, or in the absence of the manager or such official, by the principal official of the mine present at the surface, enters such mine or part thereof, shall be guilty of an offence against this Act.

Entry to a mine where rescue operations in progress.

(2) (a) The Coal Mines Regulation Act, 1912, as amended by subsequent Acts, is amended by omitting from subsection (1A) of section three the words "Mines Rescue Act, 1925, the Mine Subsidence Act, 1928-1951, the".

Amendment of Act No. 37, 1912, sec. 3. (Consequential.)

(b) The Coal Mines Regulation Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Coal Mines Regulation Act, 1912-1962.

3. The Principal Act is further amended—

Further amendment of Act No. 3, 1925.

- (a) (i) by omitting from paragraph (e) of subsection two of section seven the words "not exceeding six per centum per annum" and by inserting in lieu thereof the words "approved by the Minister in any particular case";

Sec. 7. (Mines Rescue Fund.)

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

(3) The fund may be applied towards the wages of persons, other than those referred to in paragraphs (b) and (c) of subsection two of this section, engaged, acting or training, with the approval of the committee, in rescue work with a rescue corps.

(b)

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Sec. 8.

(Rescue
apparatus.)

- (b) (i) by omitting from section eight the words "There shall be kept and maintained" and by inserting in lieu thereof the words "The committee shall keep and maintain";
- (ii) by inserting next after the word "apparatus" in the same section the words "each with a minimum rated service period of two hours and four sets of smoke helmets,";
- (iii) by omitting from the same section the words "A motor car shall also be provided and maintained thereat and kept in constant readiness for use." and by inserting in lieu thereof the words "The committee shall also provide and maintain thereat and keep in constant readiness for use such number of motor cars as may be prescribed.";

Subst.
sec. 9.

- (c) by omitting section nine and by inserting in lieu thereof the following section :—

Room for
rescue and
first aid
purposes.

9. (1) At every mine there shall be a room conforming to the following requirements provided and maintained by the owner exclusively for rescue and first aid purposes.

The room—

- (a) shall be situated on the surface conveniently near the entrance of the mine and shall be distinguished by a conspicuous sign on the door;
- (b) shall have a floor space such as may be prescribed with a minimum of one hundred and forty-four square feet; and
- (c) shall be provided with—
- (i) adequate means of natural and artificial lighting;
- (ii) means of maintaining a minimum internal temperature of seventy degrees Fahrenheit, when the room is in use;

(iii)

- (iii) a strong table suitable for supporting an injured person; No. 35, 1962
- (iv) sufficient dust proof lockers, drawers and shelves for articles required to be provided by this Act;
- (v) a plentiful supply of drinking water; and
- (vi) adequate hot and cold water for washing.

(2) The manager shall appoint some person or persons to have the charge of the room.

No person shall be so appointed unless he is the holder of a current certificate of proficiency in first aid from a society or body approved. Any person so appointed shall always be readily available during working hours and shall be responsible for keeping the room and the fittings and appliances therein in good order and for attending to the needs and comfort of the injured and of any rescue corps or rescue brigade engaged in rescue operations at the mine.

(3) Any room erected, and any extension or structural alteration to a room provided in accordance with this section, shall conform to plans and specifications which have been approved in writing before work is commenced on such erection, extension or alteration.

(4) A room conforming to the requirements prescribed by the section which this section replaces shall if the chief inspector is satisfied that the accommodation, design and arrangements in connection therewith are satisfactory and sufficient be deemed to be a room conforming to the requirements prescribed by this section.

- (d) by inserting in subsection one of section ten after the word "apparatus" the words "each with a minimum rated service period of two hours";
- (e) Sec. 10.
(Rescue apparatus to be provided at each mine.)

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Sec. 12.
 (Superintendent.)
- (e) (i) by inserting at the end of subsection one of section twelve the words "The committee shall, within fourteen days of such appointment, notify the chief inspector in writing of the name of the superintendent so appointed.";
- (ii) by omitting from subsection two of the same section the words "has had at least five years actual practical experience in coal mines" and by inserting in lieu thereof the words "is registered as the holder of a first-class certificate of competency under the Coal Mines Regulation Act, 1912, as amended by subsequent Acts";
- (iii) by inserting in paragraph (a) of the same section after the word "apparatus" the words ", smoke helmets and gas masks";
- (iv) by inserting in subsection four of the same section after the word "district" the words "or of any other occurrence at a mine within the district whereby life or property is or is likely to be endangered,";
- (v) by omitting from paragraph (c) of the same subsection the words "in saving life and property";
- Sec. 13.**
 (Instructors.)
- (f) (i) by omitting from subsection one of section thirteen the words "persons who are competent to" and by inserting in lieu thereof the words "instructors who are competent to instruct and";
- (ii) by omitting subsection two of the same section ;
- New sec. 13A.**
- (g) by inserting next after the same section the following new section :—
- 13A. The apparatus and facilities of a rescue station may with the approval of the committee be used for purposes other than mine rescue operations, instruction or training :
- Provided that—
- (a) the cost of such use is not a charge against the fund ;
- (b)

Use of
 apparatus
 and
 facilities
 for purposes
 other than
 rescue
 operations.

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- (b) such use does not interfere with the efficiency of the rescue station; and
- (c) when apparatus is used where noxious or poisonous gases are present, it is used in accordance with the provisions of this Act.

4. The Principal Act is further amended—

Further amendment of Act No. 3, 1925.

- (a) (i) by inserting in paragraph (e) of subsection one of section fourteen after the word “apparatus” the words “, gas masks and smoke helmets,”;
 - (ii) by omitting from the same paragraph the words “by the Minister”;
 - (iii) by omitting from subsection two of the same section the word “owner” wherever occurring and by inserting in lieu thereof the word “manager”;
 - (iv) by omitting subsection three of the same section;
- (b) by omitting from section fifteen the words “Every rescue corps shall, after the completion of its” and by inserting in lieu thereof the words “The superintendent shall ensure that each member of the corps shall, after the completion of such member’s”.

Sec. 14. (Permanent corps at central rescue stations.)

Sec. 15. (Training of rescue corps.)

5. The Principal Act is further amended—

Further amendment of Act No. 3, 1925.

- (a) (i) by inserting in subsection two of section sixteen after the word “selected” the words “by the manager”;
- (ii) by omitting from subsection three of the same section the word “owner” and by inserting in lieu thereof the word “manager”;

Sec. 16. (Organisation and maintenance.)

(iii)

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(iii) by omitting from paragraph (a) of subsection four of the same section the words "by the Minister";

(iv) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph :—

(b) the members have thereafter at least one day's practice with breathing apparatus four times a year at intervals of not more than four months nor less than two months between any two such days, which practice shall at least twice in the year take place at the mine;

(v) by inserting in paragraph (c) of the same subsection after the word "apparatus" the words ", smoke helmets and gas masks";

(vi) by omitting subsection five of the same section;

(vii) by omitting subsection six of the same section and by inserting in lieu thereof the following subsection :—

(6) The owner shall, if the committee has not already paid such persons for such time, pay to persons for the time being occupied in performing duties under this section an amount not being less than such amount as would be payable to a member of a rescue corps performing similar duties.

A person shall not be entitled to both a payment under this subsection and remuneration from his employer in respect of such time.

(viii) by omitting subsection seven of the same section;

(ix) by omitting from subsection eight of the same section the word "owner" and by inserting in lieu thereof the word "manager";

Sec. 17.
(Failure to
form a
brigade.)

(b) by omitting section seventeen;

(c)

- (c) (i) by omitting from subsection one of section eighteen the words "There shall be provided by the owner as soon as reasonably practicable after the passing of this Act and maintained" and by inserting in lieu thereof the words "The owner shall provide and maintain";
- (ii) by inserting in the same subsection after the word "apparatus" the words ", each with a minimum rated service period of two hours,";
- (iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection :—

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Sec. 18.

(Breathing apparatus to be provided.)

(2) Notwithstanding the provisions of subsection one of this section, the number of such suits to be provided and maintained at a mine at which a rescue brigade is established shall not in any case be less than five. Such suits shall be kept ready for immediate use, and shall be kept in suitable receptacles and housed in the room provided pursuant to section nine of this Act.

6. The Principal Act is further amended—

Further amendment of Act No. 3, 1925.

- (a) by inserting immediately before section nineteen the following new sections :—

New secs. 18A, 18B.

18A. (1) Where the Minister is satisfied on the report of the chief inspector that any person has completed a course of training in mine rescue work as prescribed and is competent to take part in mine rescue operations, he may approve the issue to such person of a certificate to that effect.

Certificates.

(2) A register shall be kept by an officer of the Department of Mines of the holders of all certificates granted by virtue of this section.

(3) A statement purporting to be under the hand of the officer of the Department of Mines for the time being keeping the register referred to in subsection two of this section indicating that a person

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person named therein is or is not or was or was not, at a date stated therein, the holder of a current certificate issued under subsection one of this section, shall be prima facie evidence of the facts stated therein.

(4) The manager shall ensure that a person who is to be permitted to enter an irrespirable atmosphere underground in a mine while wearing breathing apparatus shall be the holder of a current certificate issued under subsection one of this section.

Medallions.

18B. A medallion may be issued by the Minister to a person who has satisfactorily in the opinion of the chief inspector—

- (a) acted as a captain or leader of a rescue brigade for a period of two years; or
- (b) acted as a member of a rescue corps at a central rescue station, or with a rescue corps in accordance with subsection two of section fourteen of this Act, for a period of five years.

Sec. 20.
(Plans of workings to be kept.)

- (b) (i) by omitting from section twenty the word “tracings” where firstly occurring and by inserting in lieu thereof the words “in addition to the plan referred to in section thirty-five of the Coal Mines Regulation Act, 1912, as amended by subsequent Acts, plans”;
- (ii) by omitting from the same section the word “tracings” where secondly and thirdly occurring and by inserting in lieu thereof the word “plans”;

Sec. 21.
(Uniform rules and signals.)

- (c) (i) by omitting from section twenty-one the words “At every mine there shall be established as prescribed” and by inserting in lieu thereof the words “The manager shall establish as prescribed at the mine”;
- (ii) by omitting from the same section the words “The codes shall be conspicuously displayed at the mine and all brigades shall be” and by inserting in lieu thereof the words “The manager

manager shall ensure that such codes are conspicuously displayed at the mine and that all brigades are";

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- (d) by omitting section twenty-three and by inserting in lieu thereof the following section : —

Subst. sec. 23.

23. Where at any mine any appliance, apparatus, material or thing required by this Act to be provided is defective, the owner of such mine shall be guilty of an offence against this Act.

Failure to maintain appliances, etc.

- (e) by omitting section twenty-four ;

Sec. 24.
(Service of notices.)

- (f) by omitting section twenty-five and by inserting in lieu thereof the following section : —

Subst. sec. 25.

25. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act and any person guilty of an offence against this Act shall be liable on summary conviction to a penalty not exceeding one hundred pounds or in the case of a continuing offence to a penalty not exceeding twenty pounds a day.

Offences.

(2) If the committee contravenes or fails to comply with any provision of this Act, each member of the committee shall be guilty of an offence against this Act unless he proves that he has not taken part in such contravention or failure to comply, that the committee so acted without his knowledge or consent or that he used all due diligence to prevent the committee from so acting.

(3) No prosecution for an offence against this Act shall be instituted without the consent in writing of the Minister.

- (g) by omitting subsection one of section twenty-six and by inserting in lieu thereof the following subsections : —

Sec. 26.
(Regulations.)

(1) The Governor may make regulations for or with respect to—

- (a) (i) the nomination of persons for election to a committee and the number of persons to be elected;

(ii)

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- (ii) where less than the number of persons to be elected have been nominated, enabling the Minister to nominate the balance of the persons to be elected;
- (iii) the conduct of the election;
- (iv) prescribing the number of votes which may be cast by each owner;
- (b) the term of office of members of a committee and the filling of casual vacancies;
- (c) specifying the circumstances in which a member of a committee shall be deemed to have ceased to hold office;
- (d) regulating the proceedings of a committee;
- (e) enabling a committee to function despite the existence of a casual vacancy or a defect in the election of a member of the committee;
- (f) to prohibit members of a committee furnishing information in regard to mine output without the consent of the owner;
- (g) the detailed duties of superintendents;
- (h) the detailed duties of instructors;
- (i) requiring the manager to make reasonable arrangements for practices;
- (j) the courses of training in mine rescue work and certificates of competency and medallions;
- (k) the duties and rules for the conduct and guidance of persons employed in mine rescue operations and the code of signals to be used in such operations;
- (l) requiring plans and specifications of central rescue stations to be submitted to the Minister for approval;
- (m) the rooms, fittings and accessories to be provided in rescue stations;

(n)

- (n) the fittings, accessories and medical and other requisites to be provided in the room referred to in section nine of this Act; No. 35, 1962
- (o) the specifications of and the equipment to be provided in the motor cars referred to in section eight of this Act;
- (p) the testing of equipment including breathing apparatus;
- (q) the signs and distinguishing features to be used on the plans referred to in section twenty of this Act;
- (r) the giving of notice to an inspector of any accident or unusual occurrence involving breathing apparatus, smoke helmets, gas masks or any apparatus serving the same purpose;
- (s) all matters which by this Act are required or authorised to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

(1A) Regulations made under subsection one of this section may be made generally or specially in relation to a particular mine or district or in relation to particular times or other particular circumstances.

(1B) Regulations made under subsection one of this section may authorise any matter or thing to be from time to time determined, applied or regulated by the Minister or an inspector.

- (h) by inserting next after the same section the following new section : — New sec.
27.

27. (1) Any exemption or approval granted or given by the Minister or the chief inspector under this Act shall be in writing and may be granted or given either generally or in a particular case and, from time to time, if granted or given by the Minister may be revoked, altered or amended by the Minister or if granted or given by the chief inspector may be revoked, altered or amended by the chief inspector. Exemptions
and
approvals.

(2)

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(2) Any such exemption or approval may be granted or given either unconditionally or subject to such conditions as the Minister or the chief inspector, as the case may be, may see fit to impose, and shall, if granted or given by the Minister be signed by the Minister or the Under Secretary for Mines, or if granted or given by the chief inspector be signed by the chief inspector.

(3) Any person who fails to comply with any condition subject to which any such approval or exemption is granted or given shall be guilty of an offence against this Act.

(4) Any such exemption, approval, revocation, alteration or amendment may be evidenced—

- (a) where it is granted or given generally by the production of the Gazette containing a notice of such approval, exemption, revocation, alteration or amendment; or
 - (b) where it is given in a particular case by the production of such exemption, approval, revocation, alteration or amendment.
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