

Queensland



MINES REGULATION ACT 1964

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(includes amendments up to Act No. 75 of 1996)**

Reprint No. 1A

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Information about this reprint

This Act is reprinted as at 21 March 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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MINES REGULATION ACT 1964

[as amended by all amendments that commenced on or before 21 March 1997]

An Act to consolidate and amend the law relating to the regulation and inspection of mines and the safety and health of persons employed in, on or about mines and of persons affected by the operation of mines and for related purposes

PART 1—PRELIMINARY

Short title

1.(1) This Act may be cited as the *Mines Regulation Act 1964*.

Construction of this Act

(3) This Act shall be read as one with the *Mineral Resources Act 1989* (hereinafter referred to as the principal Act).

Savings

4.(2) Without limiting the operation of the *Acts Interpretation Act 1954*—

- (a) unless otherwise provided by this Act, all persons who immediately prior to the commencement of this Act held office under the repealed Act shall be deemed to have been appointed to their respective offices under and for the purposes of this Act and, subject to this Act, shall continue to hold those offices respectively in terms of their appointment without further or other appointment under this Act;
- (b) unless otherwise provided by this Act—

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- (i) every first-class certificate, second-class certificate, deputy certificate, mine electrician certificate, mine surveyor certificate and winding licence granted under the repealed Act, and in force at the commencement of this Act, shall be deemed to be respectively a first-class mine manager's certificate of competency, a second-class mine manager's certificate of competency, a deputy certificate, a mine electrician certificate, a mine surveyor certificate and a winding licence granted under this Act; and
- (ii) every winding certificate, order requisition, notice and other act of authority granted, made, issued, given or done under the repealed Act, and in force at the commencement of this Act, shall be deemed to have been granted, made, issued, given or done, as the case may be, under this Act; and
- (iii) every first-class mine manager's certificate, second-class mine manager's certificate, deputy's certificate, winding licence, certificate as mine electrician and certificate as mine surveyor granted under the *Coal Mining Act 1925*, and in force at the commencement of this Act, shall be deemed to be respectively a first-class mine manager's certificate of competency, a second-class mine manager's certificate of competency, a deputy certificate, a winding licence, a mine electrician certificate and a mine surveyor certificate granted under this Act; and
- (iv) every certificate of service granted under the *Coal Mining Act 1925*, section 57C and every certificate of service granted under section 57F of that Act shall be deemed to be respectively a mine electrician certificate and a mine surveyor certificate granted under this Act;

and shall continue in force for the purposes of this Act and shall be read and construed and acted upon subject to and in accordance with the provisions of this Act and subject to and in accordance with all limitations and conditions to which the same is subject immediately prior to the commencement of this Act including such a limitation with respect to the class of mine to which the same relates;

- (c) every certificate and licence of a kind referred to in paragraph (b) which, at the commencement of this Act, is suspended shall, for the purposes of paragraph (b), be deemed to be in force at the commencement of this Act but so that such suspension and the period thereof shall not be cancelled, revoked or diminished by the provisions of this subsection;
- (d) when in any document reference is made to the repealed Act, or to any provisions thereof, or of the rules made thereunder, such reference shall be deemed to be a reference to this Act or to the corresponding provisions of this Act unless the context otherwise indicates or requires;
- (e) every person who has been appointed to, or holds, any position in, on or about a mine in pursuance of the provisions of the repealed Act shall be deemed to have been appointed to, or to hold, that position under this Act without further appointment unless the person's appointment to, or the person's holding, that position is inconsistent with any provision of this Act.

Sewers and quarries to be subject to the repealed Act until a date proclaimed

(3) Until a date to be proclaimed by the Governor in Council and notwithstanding the repeal of the repealed Act—

- (a) every sewer and quarry, whether in existence at the date of the coming into operation of this Act or not, to which, or which belongs to a class to which the repealed Act apply, in whole or in part, immediately prior to the date of the coming into operation of this Act, or to which the repealed Act are thereafter made to apply, in whole or in part, shall be and remain subject to the repealed Acts, as modified from time to time, to the extent to which that Act applies or is made to apply thereto;
- (b) while a sewer or quarry remains subject to any provision of the repealed Act it shall not be subject to the provisions of this Act other than this subsection;
- (c) the Governor in Council may, by order in council—
 - (i) prescribe that all or any of the provisions of the repealed Act shall apply to any sewer or quarry, or class thereof; and

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- (ii) from time to time, vary or modify any provision of the repealed Act in its application to a sewer or quarry, or class thereof, and, in the exercise of the power conferred by subparagraph (i) may so vary or modify such provision in the order in council whereby that power is exercised or in a subsequent order in council.

(4) On and from a date proclaimed pursuant to subsection (5) the repealed Act shall cease to apply to every sewer or quarry, or class thereof, to which it applied, in whole or in part, immediately prior to such date and thenceforth every such sewer or quarry, or class thereof, shall be subject to the provisions of this Act as applied to it from time to time pursuant to the provisions of section 6.

(5) The Governor in Council may so proclaim a date or dates pursuant to this subsection that the date upon which the repealed Act, or any part thereof, cease to apply to sewers differs from the date upon which the repealed Act, or any part thereof, cease to apply to quarries.

(6) In subsections (3) to (5) of this subsection the term “**sewer**” means a sewer while under construction and includes any workings while being sunk or made for the purpose of repairing a sewer.

Crown to be bound

4A. The provisions of this Act extend to and bind the Crown in right of the State.

Meaning of terms

5. In this Act—

“**approved**” means approved in writing by an inspector.

“**authorised representative**” means the person having as the attorney or representative of the owner control of the manager.

“**board of examiners**” means the board of examiners constituted under this Act.

“**certificate**” means a certificate granted and in force under this Act.

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“chief inspector” includes a person performing for the time being the duties of the office of chief inspector of mines.

“excavation” means any cavity in the ground, and includes trenches, pits, sewers under construction, shafts, winzes, rises, open cuts, tunnels, adits, drives and all underground passages and workings.

“explosives” means explosives within the meaning of the *Explosives Act 1952*.

“holder” means, when used in relation to a certificate or licence granted under this Act, the person named in such certificate or licence as the holder thereof.

“inspector” means an inspector of mines appointed under this Act and an inspector of mines appointed under the *Coal Mining Act 1925*, and includes the chief inspector of mines, assistant chief inspector of mines, a senior inspector, the principal electrical inspector, the principal mechanical inspector, an electrical inspector and a mechanical inspector appointed under this Act.

“machinery” means every kind of mechanical appliance and every part thereof.

“manager” means the person having immediate charge and direction of mining operations in, on or about a mine, and includes an acting manager, a separate manager and a person appointed to assist the manager.

“mine” when used—

(a) as a verb, includes—

(i) to disturb, remove, cart, carry, wash, sift, crush, concentrate, smelt, refine or otherwise deal with any metal, mineral, ore, rock, stone, clay, sand or soil by any mode or method whatever for the purpose of obtaining any metal or mineral; and

(ii) to carry on any operation with a view to or for the purpose of—

(A) exploring or prospecting for mineral occurring naturally as part of the earth’s crust; or

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- (B) obtaining metal or mineral from a place where it occurs naturally; or
 - (C) obtaining metal or mineral from its natural state or from a state in which it is mixed with other matter; or
 - (D) disposing of any metal or mineral in connection with such obtaining; or
 - (E) disposing of waste substances or by-products resulting from such obtaining; or
 - (F) rehabilitating or restoring the surface of the land disturbed by such obtaining of metal or mineral or waste disposal including the dismantling and removal of buildings, structures, machinery and equipment carried out in connection with such rehabilitation or restoration;
- (b) as a noun, includes—
- (i) a place where mining within the meaning of paragraph (a) is carried on; and
 - (ii) a place used for storage of any substance or thing as an associated activity of mining within the meaning of paragraph (a); and
 - (iii) any place or premises (including those under construction) being maintained or intended for use as a place where mining within the meaning of paragraph (a) is to be carried on or for storage of any substance or thing as an associated activity of mining within the meaning of that paragraph; and
 - (iv) any disused or abandoned part of a place that is a mine within the meaning of subparagraph (i) or (ii) whether or not the use of that part was discontinued or abandoned by the person who or corporation that is working the mine at the material time.

“mineral” means any substance which occurs naturally as part of the earth’s crust and any substance which may be extracted from such a substance other than—

- (a) living matter;

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- (b) coal, including fireclay;
- (c) petroleum within the meaning of the *Petroleum Act 1923*;
- (d) soil, sand, gravel, rock, or water to be used or to be supplied for use as such, whether intact or in a broken form, save rock mined in block form for building;
- (e) to the extent it is so declared, any other substance for the time being declared by the Governor in Council not to be a mineral for the purposes of the principal Act either generally or in the circumstances so declared;

and, to the extent it is so declared, any substance (including any substance referred to in paragraphs (a), (b), (c) and (d)) for the time being declared by the Governor to be a mineral for the purposes of the principal Act either generally or in the circumstances so declared.

“open cut” means any excavation in the ground other than an underground excavation and includes any excavation declared by the Governor in Council, by order in council, to be an open cut but does not include any excavation declared by the Governor in Council, by order in council, not to be an open cut.

“owner” means a person or corporation being the proprietor or lessee or occupier of a mine or any part thereof, but does not include a person or corporation whose only interest in a mine is the receipt of a royalty, rent or fine therefrom, or who is the proprietor of a mine that is being worked by a person or corporation other than the proprietor or it, or, who, being the proprietor or lessee of land, is not interested in the mining of minerals therein.

“plan” means an original plan or section and a correct copy or tracing thereof.

“rock” means any portion of the earth’s crust whether consolidated or not.

“serious bodily injury” means any bodily injury of such a nature as to endanger or be likely to endanger life, or to cause or be likely to cause permanent injury to health.

“shaft” means a vertical or inclined way or opening downwards, whether from the surface or from an underground working which is or could be used for winding, draining, travelling, or ventilating purposes in

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connection with the working of a mine, and includes a winze which is or could be so used.

“trainee winding driver” means a person operating or driving a winding engine under the personal supervision of the holder of a winding licence.

“underground” means any excavation having an overlying cover of rock, and includes a shaft and includes any excavation declared by the Governor in Council, by order in council, to be underground but does not include any excavation declared by the Governor in Council, by order in council, not to be underground.

“warden” means a warden appointed under the principal Act and in respect of a particular mine means the warden to whose court the field on which such mine is situated has been assigned under the principal Act or, if the mine be not situated on such a field, the warden nearest to the mine in question.

“winding engine” means any mechanical appliance, powered by steam, air, electricity, internal combustion or water power, or operated by the force of gravity, by which persons or materials are raised or lowered by means of a cable attached to a skip, cage, bucket or other type of conveyance, to or from any place in a mine, but does not include any dragline, loader, scraper, or shovel or any mechanical appliance declared by the Governor in Council to be excluded therefrom.

“winze” means a vertical or inclined way or opening downwards from an underground working in a mine.

Application of Act

6.(1) This Act applies to every mine within Queensland and to every mine in an area outside Queensland to which the Governor in Council may, by order in council, from time to time apply this Act, and to all machinery, plant, gear and appliances used in, on or about the same and, to the extent that its provisions purport to do so, to places within Queensland that were mines at any time and to all machinery, plant, gear and appliances used in, on or about those places.

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(2) If at any time it is made to appear to the Governor in Council upon the recommendation of the Minister that there is sufficient reason that the provisions of this Act, or any of them, should apply to—

- (a) a quarry or other excavation worked for the purpose of obtaining rock, earth, clay, sand, soil or gravel; or
- (b) an excavation (other than one referred to in paragraph (a)) or a place or premises used or being maintained or intended for use in connection with making such an excavation; or
- (c) a place or premises wherein occurs activity associated with mining being carried on in proximity to the place or premises;

or a class of such a quarry, excavation, place or premises, the Governor in Council, by order in council, may prescribe that the provisions of this Act, or provisions thereof specified in the order in council, shall apply to the quarry, excavation, place or premises or class thereof and thereupon, subject to subsection (3) any such quarry, excavation, place or premises shall, for so long as the order in council remains in force, be deemed to be a mine within the meaning of this Act and shall, together with all machinery, plant, gear and appliances used in, on or about the same, be subject to the provisions of this Act or the provisions thereof specified in the order in council.

(2A) An order in council made for the purposes of subsection (2) which applies in relation to a quarry or excavation such as is referred to in paragraph (a) of that subsection shall apply and have effect in relation to a place or premises contiguous to the quarry or excavation that is used or maintained for use—

- (a) in connection with the operation of the quarry or excavation; or
- (b) for the handling, preparation and storage of rock, earth, clay, sand, soil or gravel won from the quarry or excavation; or
- (c) for the preparation of products from rock, earth, clay, sand, soil, gravel won from the quarry or excavation;

as it applies and has effect in relation to the quarry or excavation.

(2B) A reference in subsections (2) and (2A) to a quarry, excavation, place or premises includes a reference to any such quarry, excavation, place or premises under construction.

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(3) The Governor in Council may, by order in council, exempt any mine or part of a mine, or mines included in any class of mine, from all or any of the provisions of this Act either absolutely or upon and subject to such conditions as are specified in such order in council and every mine or part of a mine or class of mine so exempted shall remain exempt from the provisions of this Act to the extent prescribed by such order in council during—

- (a) the continuance in force of the order in council exempting such mine, part of a mine or class of mine; and
- (b) the compliance in all respects by the owner, authorised representative and manager of such mine, or of each mine included in such class of mine, and by all persons under the manager's control with the conditions, if any, specified in such order in council.

(5) The Governor in Council may, by order in council, prescribe that a mine wherein mineral is worked in association with coal, and which would otherwise be subject to the provisions of this Act, shall be exempt from the provisions of this Act but shall be subject to the provisions of the *Coal Mining Act 1925* and thereupon such mine and the machinery, plant, gear and appliances used in, on or about that mine shall be exempt from this Act and shall be subject to those Acts for so long as the order in council remains in force.

(6) The Governor in Council may, by order in council, declare that any mechanical appliance shall be deemed not to be a winding engine for the purposes of this Act and of the *Coal Mining Act 1925* and thereupon, for so long as such order in council remains in force, such appliance shall be so deemed.

Declaration of area or areas as a mine

6A. The Governor in Council may, by order in council, declare any area or areas within a mining tenement as defined by the principal Act to be a mine for the purposes of this Act and thereupon the area or areas specified in the order in council shall for so long as the order in council remains in force be deemed to be a mine for those purposes.

PART 2—ADMINISTRATION

General administration of Act

7. This Act shall be administered by the Minister and, subject to the Minister, by the chief inspector, assistant chief inspector other inspectors and other officers appointed for the purposes of this Act.

Appointments of officers

8.(1) The chief inspector of mines, assistant chief inspectors of mines, and inspectors, electrical inspectors, mechanical inspectors and other officers necessary for this Act, are to be employed under the *Public Service Act 1996*.

(2) After the commencement of this Act—

- (a) no person shall be appointed to be chief inspector of mines, assistant chief inspector of mines or an inspector of mines (other than an electrical inspector of mines or a mechanical inspector of mines) unless the person is the holder of a first-class mine manager's certificate of competency granted under this Act;
- (b) no person shall be appointed to be an electrical inspector of mines or a mechanical inspector of mines unless the person is the holder of—
 - (i) a degree in electrical engineering, or mechanical engineering, as the case may be, conferred by the University of Queensland; or
 - (ii) a degree, diploma or other qualification in electrical engineering or mechanical engineering, as the case may be, conferred by an educational body or institution, which the Minister deems adequate.

PART 3—BOARD OF EXAMINERS

Board of examiners

9.(1) The Governor in Council may, by notification published in the gazette, from time to time, appoint persons to be members of the board of examiners.

(1A) The term of appointment of any appointed member of the board of examiners shall be 5 years.

(2) The board of examiners shall consist of—

- (a) an officer (being the holder of mining qualifications) of the Department of Mines, appointed on the recommendation of the Minister, who shall be chairperson; and
- (b) at least 4 other persons, being the holders of mining qualifications, who possess a practical knowledge and skill in the mining industry and of whose number, no more than 2 shall be inspectors for the purposes of this Act or the *Coal Mining Act 1925*.

(3) The board of examiners—

- (a) shall examine candidates desirous of becoming a mine manager, a mine deputy, an open cut examiner, a mine surveyor, a mine electrician or a winding driver;
- (b) may grant, in accordance with this Act, to those candidates who satisfy the board that they possess the necessary knowledge, skill and experience, and are not otherwise unfit, any of the following certificates and licences—
 - (i) first-class mine manager's certificate of competency;
 - (ii) second-class mine manager's certificate of competency;
 - (iii) limited mine manager's certificate of competency;
 - (iv) deputy certificate;
 - (v) open cut examiner's certificate;
 - (vi) mine electrician certificate;
 - (vii) mine surveyor certificate;

- (viii) winding licence;
 - (ix) such other certificate, licence or authorisation as the Minister may, from time to time, approve;
 - (c) may grant a certificate, licence, or authorisation either absolutely or subject to such limitations and conditions as the board may deem proper and may impose such limitations and conditions on a certificate, licence or authorisation already granted by the board;
 - (d) may cancel or suspend in accordance with this Act any certificate, licence or authorisation granted by the board;
 - (e) may lift any cancellation or suspension of a certificate, licence or authorisation imposed under this Act.
- (4)** The board of examiners may act as 1 or more committees.
- (4A)** However, not less than 3 members of the board, of whom 1 shall be the person recommended by the Minister under subsection (2)(a), shall constitute a committee.
- (5)** By a majority vote of its members present and voting at the meeting at which such vote is taken the board of examiners may, from time to time, make rules with respect to—
- (a) the conduct of its proceedings;
 - (b) the conduct of proceedings before any committee of the board;
 - (c) the appointment of persons to fill casual vacancies which may, from time to time, arise among the appointed members of the board.
- (6)** The chairperson of the board of examiners shall be the executive member of the board.
- (7)** However, without thereby derogating from the chairperson's own executive powers, as such chairperson, under this Act the chairperson may delegate all or any of the chairperson's powers to such person or persons as he or she may from time to time deem fit.

Continuation of existing members

10.(1) The persons who, at the commencement of this Act, are members of the board of examiners constituted under and for the purposes of the

repealed Act shall be deemed to have been appointed under this Act to the board of examiners constituted under and for the purposes of this Act and shall, without further appointment under this Act, continue to hold their respective appointments to the board under, subject to and in accordance with this Act.

(1A) The term of appointment of such members deemed to have been so appointed shall be deemed to commence on the date of commencement of this Act.

(2) Until the Governor in Council appoints members of the board of examiners constituted under this Act in addition to those members deemed to have been appointed thereto by virtue of this section, such lastmentioned members shall comprise the board of examiners constituted under this Act and may exercise every power and shall perform and be subject to every duty and obligation that such board of examiners may exercise, perform or be subject to by virtue of this Act.

General provisions with respect to certificates

11.(1) Each certificate shall set out the class of mine in respect of which it has been granted and shall entitle its holder to the holder's qualification under that certificate only in respect of that class of mine and subject to the limitations and conditions, if any, imposed by the board of examiners.

(2) A first-class mine manager's certificate of competency shall entitle the holder thereof to be manager of, or to assist the manager of, a mine; the holder thereof shall be designated therein as a mine manager.

(3) A second-class mine manager's certificate of competency shall entitle the holder thereof to assist the manager of a mine; the holder thereof shall be designated therein as assistant manager or as supervisor or as underground foreperson.

(4) A limited mine manager's certificate of competency shall entitle the holder thereof to be manager of the type of coal mine specified therein; the holder thereof shall be designated therein as a mine manager.

(5) A deputy certificate shall entitle the holder thereof to act as deputy in a coal mine; the holder thereof shall be designated therein as a deputy.

(6) An open cut examiner's certificate shall entitle the holder thereof to act as an open cut examiner in any open cut coal mine.

(7) A mine electrician certificate shall entitle the holder thereof to have charge of the electrical machinery, apparatus and conductors used in, on or about a mine; the holder thereof shall be designated therein as a mine electrician.

(8) A mine surveyor certificate shall entitle the holder thereof to make surveys in on or about a mine and to compile plans of such surveys and to certify the copies of such plans referred to in section 51; the holder thereof shall be designated therein as a mine surveyor.

(9) In this section—

“**mine**” includes a place where any operation for the purpose of obtaining coal has been or is being carried on and any place where the products of such a place have been or are being treated or dealt with.

General provisions with respect to licences

12.(1) Each winding licence shall set out the class or classes of winding engine in respect of which it has been granted and shall entitle its holder to the holder’s qualification under that licence only in respect of that class or those classes of engine and subject to the limitations and conditions, if any, imposed by the board of examiners.

(2) A winding licence shall entitle the holder thereof to operate a winding engine in on or about a mine.

Offences with respect to certificates and licences

13.(1) A person who becomes the holder, or attempts to become the holder, of a certificate, licence or authorisation under this Act by fraud commits an offence against this Act.

(2) The board of examiners may cancel a certificate, licence, or authorisation of a type referred to in this Act under this Act which has been granted by the board as a result of fraud whether the same has been granted before or after the commencement of this Act.

(2A) When the board of examiners has cancelled a certificate, licence or authorisation in accordance with subsection (2) it shall by written notice to the holder of such certificate, licence or authorisation require the holder to return such certificate, licence or authorisation to the chairperson of the

board of examiners and such holder shall forthwith return such certificate, licence or authorisation to the chairperson.

(3) Any person—

- (a) who uses a certificate, licence or authorisation under this Act which has been cancelled by the board of examiners; or
- (b) to whom a notice has been sent by the board of examiners requiring the person to return the person's certificate, licence or authorisation to the chairperson of such board, who fails to forthwith return such certificate, licence or authorisation to the chairperson;

commits an offence against this Act unless, in the case of an offence under paragraph (a), the person proves that the person had no knowledge of such cancellation, and, in the case of an offence under paragraph (b), the person proves reasonable excuse for his or her failure to return the certificate or licence to the chairperson.

PART 4—PROVISIONS RELATING TO ALL MINES

Powers of inspectors

14.(1) An inspector may, from time to time, and as often as is necessary in the inspector's opinion—

- (a) enter, inspect or examine and leave—
 - (i) any mine or part thereof at any time of day or night but so as not to impede or obstruct the working of the mine unnecessarily;
 - (ii) any land, for the purposes of this Act;
- (b) make examination and inquiry to ascertain whether the provisions of this Act in relation to a mine are being complied with;
- (c) examine and make inquiry into—
 - (i) the state and condition of a mine or part thereof;

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- (ii) the state and condition of the machinery in, on or about a mine;
 - (iii) the ventilation of a mine;
 - (iv) the sufficiency of the regulations and of any special rules for the time being applicable to a mine;
 - (v) all matters and things connected with or relating to the safety or health of persons employed in, on or about a mine or persons affected by the operations of a mine;
 - (vi) any damage caused by mining to property (whether in, on or about a mine or not);
- (d) initiate and conduct inquiries into accidents which have occurred in, on or about a mine;
- (da) seize and detain any machinery, equipment, appliance, records, books, certificates, documents, papers, writings or any other thing or substance of any kind in respect of which an offence against this Act has been or is being committed or in respect of which the inspector suspects on reasonable grounds that such an offence has been or is being committed or that the inspector believes on reasonable grounds will afford evidence as to the commission of that offence or that the inspector believes on reasonable grounds will afford evidence at an inquiry into the nature and cause of any accident;
- (db) remove any machinery, equipment, appliance, records, books, certificates, documents, papers, writings or any other thing or substance of any kind seized by the inspector under this Act from the place where it was seized to such places as the inspector determines, or may allow any such machinery, equipment, appliance, record, book, certificate, document, paper, writing or other thing or substance to remain at the place of seizure and in the latter case make such arrangements as the inspector considers necessary to protect it and for that purpose may direct the manager concerned to take and preserve those things or substances;
- (e) exercise in respect of a mine any or all of the inspector's powers which may, in the inspector's opinion, be reasonably required to

enable the inspector to properly perform and discharge his or her duties and functions with respect to an adjacent mine;

- (f) initiate and conduct prosecutions against a person who commits an offence against this Act;
 - (g) do such other thing as may be reasonably required for the purpose of carrying this Act into effect or of obtaining compliance with its provisions;
 - (h) issue orders calculated to achieve the objects and purposes of this Act or to enforce its provisions and revoke or, from time to time, vary an order issued by the inspector under this Act;
 - (i) by order in writing, require a person who has failed to comply with this Act to take within such time as is specified such steps as are specified and to remedy those matters in respect of which noncompliance has occurred.
- (2) An order pursuant to subsection (1)(i)—
- (a) shall be in the prescribed form; and
 - (b) shall not prejudice or affect in any way any proceeding or action that has been or may be taken for the failure to comply that resulted in the order, save that the person to whom the order is given is not liable for a continuance of the failure to comply during the time specified therein.

Inspections of mines for official purposes

15.(1) A warden, government geologist or assistant government geologist, with such assistants as he or she may deem desirable, or without any assistants, may at all reasonable times enter, inspect and leave any mine, and any part thereof, for official purposes, and may take measurements and samples, and gather any information, required for the purposes of such inspection.

(2) The Minister may authorise any officer of the Department of Mines, an authorised surveyor or a mine surveyor to enter, inspect and survey a mine.

(3) Every person so authorised shall have such powers of an inspector as the Minister may specify in the authorisation granted to such person.

(4) If so empowered a person so authorised may take samples of any material from a mine, but any information obtained as a result of the taking of such samples shall not be divulged to any person except in pursuance of the purpose for which the samples were taken.

Warden may authorise an examination where no inspector is resident

16.(1) Where an inspector is not resident on a field and the warden has reason to believe that any working place in, on or about a mine within the warden's jurisdiction is unsafe the warden may authorise 2 competent persons to make an examination of such working place, and upon the report of such persons may order the owner, authorised representative or manager to remove the cause of danger within a specified time and, further, to pay to the warden the cost of such examination.

(2) The warden may, by the warden's order, prohibit further work in such working place until the warden's order has been complied with or until the working place has been inspected by an inspector and certified by the inspector as safe.

(3) The warden shall notify the inspector of any action taken by the warden under this section.

(4) The competent persons appointed by the warden shall, for the purposes of this section, jointly have and may jointly exercise and perform all the rights, powers, privileges and duties conferred on an inspector by this Act except the powers to initiate and conduct inquiries into accidents or prosecutions against a person who commits an offence against this Act.

Record book

17.(1) Every manager shall cause to be kept at the mine of which he or she is manager, in such place as is approved, and to be maintained in good condition a book of such type and in such form as may be approved to be called the record book.

(1A) Such place shall be so situated that all persons employed in, on or about the mine may have ready access thereto for the purpose of examining entries made in the record book.

(2) Every inspector shall, after an inspection of a mine made by the

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inspector, as soon as practicable enter in the record book at that mine the following particulars—

- (a) the part or parts of the mine inspected by the inspector;
- (b) the nature of the inspector's inspection;
- (c) every particular which the inspector observed wherein the state and condition of that mine, or part, or its machinery is not in accordance with this Act;
- (d) any alterations and requirements which the inspector deems necessary to bring that mine, or part, and its machinery into a state and condition whereby it will accord with this Act.

(3) Every entry made in a record book under this Act shall be made by such means that it is of a permanent nature and will not readily become obscure or obliterated and shall be signed by the person inserting such entry.

(4) An entry made in, or an absence of an entry from a record book shall not, in any way, be deemed to limit or affect the duties or obligations of any person under this Act.

(5) A person, not being an inspector or other person authorised by this Act to make an entry in a record book, who without the written authority of an inspector, alters or erases an entry in a record book made pursuant to this Act, or attempts so to do, or who, without such authority, makes an entry in a record book, or attempts so to do, commits an offence against this Act.

(6) The person having custody or control of a record book of a mine shall make it available at all reasonable times for examination by an inspector, or by any person employed in a mining operation in, on or about that mine, or by a district workers' representative, a local workers' representative, or by any person authorised in writing by the Minister.

Manager to note record book entries

17A.(1) The manager of a mine shall, with respect to an entry made by an inspector in the record book, read that entry as soon as practicable after the entry is made and immediately thereafter place the manager's signature in a legible form alongside the entry concerned.

(2) The manager of a mine shall, with respect to an entry made in the

record book by a person other than an inspector—

- (a) read that entry as soon as practicable after the entry is made and immediately thereafter place the manager's signature in a legible form alongside the entry concerned; or
- (b) ensure—
 - (i) that the entry is so read and signed by a person appointed under section 34A to assist the manager; and
 - (ii) that such person brings to the notice of the manager any matter disclosed by such an entry that is either of an abnormal or unusual nature with regard to the mine or is of a kind which will or may necessitate the taking of steps by the manager to ensure the safety of persons or the security of the mine.

District workers' representatives

18.(1) The governing body for the State of Queensland of each union or association which has in its membership persons employed in a mining operation in, on or about a mine may submit to the Minister a panel of names of persons, being members of the union concerned, who are eligible to be appointed as a district workers' representative.

(1A) No person's name shall be included in such a panel unless the person has had at least 5 years' practical experience in mining.

(2) From the panels submitted to the Minister the Minister may appoint 1 or more suitable persons to be district workers' representatives.

(2A) If, in the Minister's opinion, no name included in the panels submitted to the Minister is of a suitable person, the Minister may request of the governing body of each union or association concerned that it submit an additional panel of names for the purpose of subsection (2).

(3) The term of appointment of a district workers' representative shall be a period to be determined in each case by the Minister not exceeding 3 years.

(3A) However, the Minister may terminate the appointment of any district workers' representative at any time prior to the expiration by effluxion of time of the period for which the representative was appointed

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if, in the Minister's opinion, that representative is not performing the duties of a district workers' representative in a manner calculated to achieve the objects of this Act.

(3B) However, subject to the provisions of this section, upon the expiration by effluxion of time of each term of his or her appointment a district workers' representative shall be eligible for reappointment as such by the Minister.

(4) The Minister may constitute the State into districts and may assign 1 or more districts to each of the district workers' representatives who shall thereafter exercise the representatives' powers and perform the representatives' duties and functions under this Act with particular reference to the district or districts assigned to him or her.

(4A) The provisions of subsection (4) shall not be construed so as to prejudice the exercise of the powers and the performance of the duties and functions of a district workers' representative throughout the whole State.

(5) The maximum number of district workers' representatives to be appointed shall be 4 but such maximum number may be varied by way of increase or diminution as the Governor in Council may by order in council prescribe.

(6) Upon giving to the manager of the mine concerned reasonable notice of his or her intention so to do a district workers' representative may inspect a mine and the machinery and appliances in, on or about such mine twice in every month.

(7) In addition to any inspections made under subsection (6) of this section, a district workers' representative, upon giving notice in writing to the manager of the mine concerned, may inspect the workings of that mine if at any time such workings, or any part thereof, in his or her opinion or in the opinion of the majority of the persons working in, on or about that mine, are unsafe.

(8) If a district workers' representative is of opinion that the condition of any place in on or about a mine inspected by the representative, or of any workings in such place, is such as to endanger life, he or she may suspend work in such place until it has been certified to be safe by an inspector.

(9) Every district workers' representative shall as soon as practicable after completion by the representative of an inspection of a mine or any part

thereof or the machinery or appliances in on or about a mine or any part thereof, enter and sign a true record of the representative's findings as a result of the representative's inspection in the record book of the mine concerned and shall cause a copy of such entry to be sent forthwith to an inspector and if he or she has found a condition of danger or has reason to suspect the existence of danger, shall forthwith notify the manager of the mine concerned.

Appointment of local workers' representatives

19.(1) If in respect of a mine—

- (a) a district workers' representative does not in practice make at least 2 inspections in each month; or
- (b) at any particular time a district workers' representative is not available to make an inspection;

the persons working in on or about that mine may appoint, from their number, 2 persons to be called local workers' representatives.

(2) Local workers' representatives may be appointed in such manner as the persons working in, on or about the mine in respect of which such representatives are to be appointed shall adopt.

(3) Upon their appointment as local workers' representatives in respect of a mine the persons so appointed shall give to the manager of that mine notice of their appointment.

(3A) Such notice shall be sufficient notification to the owner, authorised representative and manager of the appointment in respect of which it is given.

(4) Upon notification given to the manager pursuant to the provisions of subsections (3) and (3A) the local workers' representatives appointed for a mine may, in the absence of a district workers' representative, and in respect of that mine, jointly exercise all the powers and jointly perform all the functions and duties of a district workers' representative under this Act and, if they exercise or perform any of such powers, functions or duties, shall be severally liable to all the obligations of a district workers' representative under this Act.

(5) Before making an inspection of the mine or of the machinery or

appliances in, on or about that mine, the local workers' representatives shall give to the manager notice of their intention so to do.

Facilitating the discharge of their duties by workers' representatives

20.(1) The owner, authorised representative and manager of a mine in or about which a district workers' representative or local workers' representatives propose to exercise powers or perform functions or duties conferred upon him, her or them under this Act shall afford every facility to such representative or, as the case may be, representatives to enable him, her or them to exercise such powers or perform such functions or duties.

(2) If the owner, authorised representative or manager of a mine thinks fit, the manager or other person selected by him or her, may accompany the district workers' representative or local workers' representatives on an inspection of that mine.

Remuneration of workers' representatives

21.(1) The remuneration of a district workers' representative or, as the case may be, a local workers' representative, during the time taken by the representative in making an inspection, in entering a finding in the record book and in taking such further steps as may be required of the representative under this Act, may be paid out of the consolidated fund to such extent and on such conditions as the Minister may from time to time approve.

(2) The consolidated fund is hereby appropriated for this purpose.

(3) A representative is taken to have taken a further step in an inspection while the representative is travelling—

- (a) from the representative's usual place of residence to a mine to make an inspection; or
- (b) between the mine and the representative's usual place of residence during an inspection; or
- (c) from a mine to the representative's usual place of residence on finishing an inspection.

Representatives taken to be employed by Crown or mine owner

22.(1) While making an inspection of a mine, a district workers' representative or a local workers' representative is taken to be employed by—

- (a) for a district workers' representative—the Crown; or
- (b) for a local workers' representative—the owner of the mine.

(2) The Crown or the owner of the mine must enter into a contract of insurance with WorkCover Queensland or another insurer for insurance for district workers' representatives and local workers' representatives.

Termination of the appointment of local workers' representatives

23.(1) When local workers' representatives have been appointed in respect of a mine any person employed in a mining operation in, on or about that mine may by a writing addressed to the Minister, request the Minister to rescind the appointment of either or both of such representatives.

(2) If the Minister receives a request of a kind referred to in subsection (1), or if at any time it is otherwise made to appear to the Minister to be necessary so to do, the Minister may, by writing under the Minister's hand, rescind the appointment of either or both of the local workers' representatives so appointed and thereupon such appointment shall terminate but without prejudice to anything properly done by those representatives pursuant to this Act prior to such termination.

(3) Before acting upon a request of a kind referred to in subsection (1) the Minister shall satisfy himself or herself that, having regard to all the circumstances of the case, the request has been made by a sufficient number of persons employed in a mining operation, in, on or about the mine with respect to which the request is concerned.

(4) The provisions of this section shall not prejudice, or derogate from any power to terminate the appointment of local workers' representatives or either of them, conferred upon or implied in the persons employed in, on or about the mine concerned by virtue of the provisions of the *Acts Interpretation Act 1954*.

Obstruction of inspections an offence

24.(1) Any person who wilfully obstructs an inspector or a district workers' representative or local workers' representatives in the exercise of powers or the performance of functions and duties under this Act or who uses insulting words to any of such persons in the course of the exercise or discharge of his, her or their powers or functions or duties under this Act commits an offence against this Act.

(2) Any owner, authorised representative or manager who fails to afford to an inspector or a district workers' representative or a local workers' representative the means necessary for making an entry, inspection, examination or inquiry under this Act commits an offence against this Act.

(3) In this section the term “**inspector**” includes a person acting under an authority under this Act.

Order to take precautions and to make changes

25.(1) When an inspector finds—

- (a) in, on or about a mine or any part thereof, that—
 - (i) the state and condition thereof or any thing or practice used in or in connection with that mine or part of a mine is dangerous or defective; or
 - (ii) the presence or absence of any thing or practice threatens or tends to cause bodily injury to any person or damage to property; or
- (b) that the operation of the mine or any part thereof threatens or tends to adversely affect the safety or health of any person (whether in, on or about the mine or not);

then if the case is not sufficiently provided for by this Act or by a special rule applicable to the mine concerned, the inspector may order such precautions to be taken and such changes to be made as will, in the inspector's opinion, temporarily ensure either or both of the following—

- (c) the safety of the mine;
- (d) that the safety or health of any person is not adversely affected or is no longer adversely affected by the operation of the mine.

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(1A) The manager of the mine in relation to which such an order is given shall forthwith obey such order.

(1B) A manager who fails to forthwith obey such an order shall be liable to have the manager's certificate under this Act, if any, suspended or cancelled by the board of examiners.

(1C) However, a manager whose certificate has been suspended or cancelled pursuant to subsection (1B) may appeal from the decision of the board to the Minister who may confirm, vary or rescind such decision as the Minister thinks just and the Minister's decision thereon shall be final.

(2) An inspector who makes an order referred to in subsection (1) shall report the facts of the case to the Minister and, if so directed by the Minister, shall, by means of a requisition in writing addressed to the owner, authorised representative or manager of the mine concerned, specify—

- (a) the danger or defect found by the inspector pursuant to subsection (1)(a)(i), and the inspector's reason for holding the circumstances to be such a danger or, as the case may be, a defect as is specified therein; or
- (b) the threat to, or tendency to cause, bodily injury or damage found by the inspector pursuant to subsection (1)(a)(ii) and the inspector's reason for holding that the circumstances constitute such a threat or tend to cause such bodily injury or damage as is specified therein; or
- (c) the threat to or tendency to affect the safety or health of any person found by the inspector pursuant to subsection (1)(b) and the inspector's reason for holding that the circumstances constitute such a threat or tend to have an adverse affect in such manner as is specified therein;

and shall require that the owner, authorised representative or manager eliminate that—

- (d) danger or defect; or
- (e) threat to or tendency to cause bodily injury or damage; or
- (f) threat to or tendency to adversely affect the safety or health of any person;

as the case may be.

(2A) An inspector shall give a copy of the inspector's report made under subsection (2) and a copy of the inspector's requisition, if any, issued thereon to the warden.

Time and manner of objecting to inspector's requisition

(3) If the owner, authorised representative or manager of a mine in respect of which, or of any part of which, an inspector has issued a requisition under subsection (2), desires to object to complying with such requisition he or she shall cause to be delivered to the warden and to the inspector who issued such requisition, within 10 days of the date of such requisition, his or her objection in writing to complying with such requisition, setting out with particularity the grounds of his or her objection.

(3A) For the purposes of the proceedings before a warden's court such an objection shall be deemed to be a complaint of the objector or objectors.

(3B) Upon receipt by the inspector of an objection in writing under this section the inspector who issued the requisition shall furnish a report on such objection to the warden.

(3C) The warden shall fix a time for hearing of the objection and shall cause notice thereof to be given to the objector or objectors and to the inspector who issued the requisition.

(3D) Upon hearing an objection to complying with such a requisition the warden's court may, by its decision, confirm, vary or rescind the requisition.

(3E) When an objection to complying with a requisition issued by an inspector under subsection (2) is made to, and determined by, a warden's court or, when an appeal against a decision relating to such a requisition is heard and determined by an appellate court then, for the purposes of this Act, the requisition issued under subsection (2) as confirmed or modified by the warden's court or, in the case of an appeal heard and allowed, the appellate court which last confirmed or modified the requisition, shall be deemed to be the requisition issued by the inspector under subsection (2).

(4) In respect of each requisition issued under subsection (2) there shall be a date (the "**date of operation**") on and from which such requisition shall operate.

(5) The date of operation of a requisition shall be determined in accordance with the following provisions of this subsection, namely—

- (a) if no objection to complying with the requisition is delivered by the owner, authorised representative or manager of the mine in respect of which, or any part of which, the requisition was issued within the time limited therefor by subsection (3) then the date of operation of such requisition shall be the eleventh day from the date of such requisition; or
- (b) if an objection to complying with the requisition is delivered by the owner, authorised representative or manager of the mine in respect of which, or any part of which, the requisition was issued, within the time limited therefor by subsection (3) then the date of operation of such requisition shall be the date on which the court that hears such objection delivers its decision with respect thereto subject however to the provisions of paragraph (c);
- (c) if any person who feels aggrieved by the decision of a court relating to an objection to complying with a requisition issued under this section appeals against that decision in the manner and within the time prescribed therefor by the principal Act and regulations made thereunder then the date of operation of such requisition shall be the date on which the appellate court delivers its decision with respect thereto, or the appeal is struck out, withdrawn or otherwise terminated whichever shall first occur.

Failure to comply with an inspector's requisition

26.(1) An owner, authorised representative or manager of a mine, in respect of which or of any part of which a requisition has been issued under section 25, who fails to comply with such requisition within 14 days from the date of operation of such requisition commits a continuing offence against this Act and is liable to a penalty not exceeding 20 penalty units and, in addition, to a penalty not exceeding 2 penalty units for each day beyond such fourteenth day during which such noncompliance continues.

(2) A certificated manager who has been convicted of an offence against this section is liable to have the manager's certificate cancelled or suspended by the board of examiners on the ground of misconduct in addition to any other penalty to which the manager may be rendered liable by the manager's offence.

(2A) However, the manager shall not be liable to such additional penalty

when the court by which the manager was convicted has imposed no penalty on the manager.

(3) If the court hearing a complaint for an offence under this section is satisfied that the defendant has taken active steps to comply with the requisition issued under section 25 but, despite reasonable diligence, has not been able to comply with such requisition, the court may adjourn the proceedings to a date certain and if, by that date, the defendant has complied with such requisition, the court may convict the defendant but shall not impose a penalty on the defendant.

(4) An averment in a complaint for an offence under this section that a date named therein is the date of operation of a requisition issued under section 25 shall be prima facie evidence that the date of operation of such requisition is the date named in the complaint and, in the absence of evidence to the contrary, shall be conclusive evidence thereof.

Appointment of manager

27.(1) The authorised representative of a mine or, if there is no authorised representative, the owner, shall, before allowing that mine to be worked, appoint a manager of that mine who accepts such appointment.

(2) The authorised representative of a mine or, if there is no authorised representative, the owner may at any time appoint a separate manager or any number of separate managers to be manager or managers of the underground or open cut workings of a mine or of machinery, plant or works used for the treatment of ore, generation of power or any other purpose connected with the mine or of any part or parts thereof and, if notified by the Minister that in the Minister's opinion a separate manager or a number of separate managers should be so appointed, such authorised representative or owner, as the case may be, shall appoint such separate manager or managers.

(3) The person who appoints a manager or separate manager shall ensure that an entry is made forthwith in the record book recording the name of the appointee, and shall, within 14 days of the appointment, give written notice of such appointment to the warden and to the inspector and shall notify the warden and the inspector in like manner of any change of manager or separate manager and shall ensure that the name of such changed appointee is recorded in the record book.

(3A) Such notice shall include—

- (a) the name and address of the person appointed; and
- (b) the date of the appointment; and
- (c) the qualifications and relevant experience of the person appointed; and
- (d) where the appointment is made in respect of the underground or open cut workings of a mine, the number of persons employed in such underground or open cut workings;

and shall clearly indicate, and, if necessary, delineate the mine or part or parts thereof in respect of which the manager or separate manager is appointed.

(4) When a manager or, as the case may be, separate manager is appointed and the person appointed is not the holder of a mine manager's certificate of competency, the inspector shall, if the inspector is of the opinion that the appointment threatens or tends to threaten the safety or health of persons in, on or about the mine, notify the Minister who, if the Minister concurs with the opinion of the inspector, may cancel such appointment.

(4A) Notice of such cancellation shall be sent to the owner or authorised representative of the mine and to the manager concerned.

(4B) If the Minister cancels any such appointment, the person who was appointed manager, or, as the case may be, separate manager of the mine concerned shall forthwith cease to be manager or separate manager thereof.

(4C) The Minister may require by notice to the owner or authorised representative of the mine concerned, that another appointment be made in lieu of that which was cancelled and thereupon the owner or authorised representative of the mine concerned shall make another appointment in accordance with that requirement.

(5) The warden and the inspector shall each record the name and address and date of appointment of a manager and of a separate manager and the person so recorded shall be the manager of the mine concerned or of the part or parts thereof in respect of which such person was appointed.

(6) A certificate purporting to be signed by the warden or inspector containing particulars of the appointment of a manager or separate manager

of a mine specified therein or of part or parts thereof, as the case may be, and stating—

- (a) that no further appointment of a manager or separate manager of that mine has been notified to the warden or inspector, as the case may be; and
- (b) that the appointment of that manager or separate manager in relation to such mine or part or parts thereof as the case may be, has not been cancelled;

shall be accepted by all courts and tribunals as evidence and, in the absence of evidence to the contrary, conclusive evidence—

- (c) of its contents; and
- (d) that at any time in question in those proceedings, being a time subsequent to the date of appointment shown in such certificate and prior to the date of the proceedings, the person named in the certificate was the manager or separate manager, as the case may be, of the mine specified therein or of the part or parts thereof, as the case may be.

(7) Except as hereinafter provided, a contractor for getting mineral in any mine or part of a mine shall not be appointed manager of that mine or part thereof.

Manager to be in charge of a mine being worked

28.(1) Every mine, while being worked, shall be under the control of a manager who shall be personally in charge of the mine and the performance of the work done therein and shall be responsible for the control, management and direction of the mine and such work.

(2) However, at any time, a mine is being worked without a manager, the owner and authorised representative of the mine shall be subject to all the obligations of a manager under this Act and shall be liable for any default in the performance of those obligations or any of them.

Owner or authorised representative not to interfere with manager

29. The owner or authorised representative, not being a manager, or any person in a position of authority and control over the manager, shall not

exercise the owner or representative's authority and control in any way to obstruct the manager in observing or enforcing the observance of this Act.

Qualification of manager

30.(1) Subject to the provisions of subsections (1A) to (1C), the provisions of this section apply only to a mine in which more than 20 persons are ordinarily employed underground or, in the case of an open cut, where more than 40 persons are ordinarily employed.

(1A) The Minister may, by order under the Minister's hand, published in the gazette, direct that all or any of the mines to which the provisions of this Act may have been extended pursuant to section 6(2) and which would otherwise have been subject to the provisions of this section, shall be exempt from the provisions of this section, and upon such publication such mines or mine shall be exempt accordingly.

(1B) The Minister may, by order under the Minister's hand, published in the gazette, direct that a particular mine or class of mine shall be subject to the provisions of this section, and, upon such publication such mine or class of mine shall be subject accordingly although the same would not otherwise have been subject to the provisions of this section.

(1C) However, the Minister may, by such order, or by a subsequent order, published in the gazette, specify the minimum qualification required of a manager of such a mine or class of mine.

(2) Subject to the provisions of subsection (3), the manager of every mine shall—

- (a) be the holder of a first-class mine manager's certificate of competency granted under this Act; or
- (b) in the case of a mine exempted from the provisions of this section by order of the Minister under subsection (1A), be, at the least, a person with practical knowledge and skill of a nature and degree approved by the board of examiners either generally or in a particular case; or
- (c) in the case of a mine in respect of which the Minister has specified the minimum qualification required of a manager under subsection (1C) of this section, possess at the least, such qualification.

Acting manager

(3) If in respect of a mine—

- (a) there is no certificated manager available for the time being due to reasonable cause; or
- (b) the manager is incapacitated from performing the manager's duties; or
- (c) the manager is about to be absent from the mine for a longer period than 3 days;

the owner, authorised representative or manager of the mine may appoint—

- (d) in the case of a mine the manager of which is required by this section to be the holder of a first-class mine manager's certificate of competency, a person who holds at the least a second-class mine manager's certificate of competency; or
- (e) in any other case, a person who possesses, at the least, the same qualification as that required by this section of the manager of the mine in question; or
- (f) in any case where there is no person available who possessed the qualification required by this section of the manager of the mine in question, a competent person;

to be acting manager until a manager who possesses the qualification required of the manager of the mine in question is available or during the manager's incapacity or absence, as the case may be.

(3A) The person making such appointment shall ensure that an entry is made forthwith in the record book recording the name of the appointee and forthwith notify the warden and the inspector in writing of the appointment and in such notification shall state the following particulars—

- (a) the name and address of the person appointed;
- (b) the period of the appointment;
- (c) the reasons for the appointment;
- (d) the qualifications and mining experience of the person appointed;
- (e) the number of persons employed underground at the mine concerned.

(4) When the period of appointment of an acting manager shown in the notification referred to in subsection (3A) exceeds 1 week, the inspector shall notify the chief inspector, who if the chief inspector is of opinion that in view of the particulars shown in such notification or for any other reason the appointment that has been made should not have been made, may cancel such appointment by notice addressed to the owner, authorised representative or manager of the mine concerned.

(4A) If the chief inspector cancels any such appointment the person who was appointed acting manager of the mine concerned shall forthwith cease to be acting manager thereof.

(4B) The chief inspector may require by notice to the owner, authorised representative or manager of the mine concerned that another appointment be made in lieu of that which was cancelled and may specify the minimum qualification that the appointee shall possess, and thereupon the owner, authorised representative or manager of the mine concerned shall make another appointment in accordance with the chief inspector's specification if it be possible so to do.

(5) No appointment of an acting manager shall be for a longer period than 2 weeks without the consent of the inspector first had and obtained nor shall any such appointment be for a longer period than 1 month without the consent of the Minister first had and obtained.

(6) A person appointed as acting manager of a mine under this section shall be deemed to be manager of that mine for the purposes of this Act for so long as the person acts in that capacity.

(7) In this section the term “**mine**” means a place where any operation for the purpose of obtaining metal or mineral has been or is being carried on, but does not include a place where the products of such a place have been or are being treated or dealt with.

Offence to work a mine without a qualified manager

31.(1) If any mine is worked for more than 14 days without a manager who possesses, at the least, the qualification required by section 30, then—

- (a) the owner and authorised representative of such mine; and
- (b) the person (if any) who acts during that period as manager of such mine;

commits a continuing offence against this Act and is each liable to a penalty not exceeding 20 penalty units and, in addition, to a penalty not exceeding 5 penalty units for each day in excess of 14 days during which the mine is so worked.

(2) A copy of the gazette in which an order made by the Minister under section 30 is published shall, upon its production in any proceeding, be evidence of its contents and that such order has not at the date of such production, been revoked.

Person to be manager of 1 mine only

32. No person shall be appointed, or act as, manager of more than 1 mine, at any 1 time, unless with the consent in writing of the Minister first had and obtained.

Notification of operations in a mine and abandonment thereof

33.(1) Within 1 month after mining operations in, on or about a mine are commenced, discontinued, recommenced or abandoned, the owner, authorised representative or manager shall give notice of the fact to the warden and the inspector.

(2) The provisions of this section shall not be construed so as to require such notice to be given in respect of the commencement, discontinuance, recommencement or abandonment of a mining operation in a part only of a mine which is otherwise being worked.

Enforcement of Act and rules

34.(1) The manager shall enforce the observance of all the provisions of this Act and of all special rules applicable to the mine concerned, and shall ensure that every person subordinate to the manager in a position of authority in the mine is conversant with such provisions.

(2) The manager—

- (a) shall ensure that every person subordinate to the manager in a position of authority in or about the mine is competent in the performance of the person's duties;

(b) shall ensure that every person employed in or about the mine has been properly instructed to safely perform the person's duties.

(3) As soon as practicable after the occurrence of any breach of this Act or special rules applicable to a mine has come to the manager's knowledge, the manager shall report the same in writing to the warden or inspector.

Appointment of persons to assist the manager

34A.(1) The owner, authorised representative or manager may appoint such persons as he or she considers necessary to assist the manager so as to ensure the carrying out of all operations in, on or about the mine in conformity with the provisions of this Act and, if notified by the chief inspector that in the chief inspector's opinion 1 or more persons should be appointed to assist the manager in that behalf, such owner, authorised representative or manager shall, as soon as practicable after receipt of such notification, appoint such person or persons.

(2) A person shall not be appointed under this section to assist the manager unless the person is competent to perform the duties for which the person is appointed.

(3) The owner, authorised representative or manager who appoints a person to assist the manager shall ensure that an entry is made forthwith in the record book recording the name of the appointee and shall, within 14 days of such appointment, give written notice of such appointment to the warden and to the inspector and in such notification shall state the following particulars—

- (a) the name and address of the person appointed;
- (b) the date of the appointment;
- (c) the qualifications and relevant experience of the person appointed;
- (d) the manner in which the appointee is to assist the manager.

(4) When a person is appointed under this section to assist the manager—

- (a) in the supervision of the underground or open cut workings of a mine and such person is not the holder of a mine manager's certificate of competency; or

(b) in any other capacity;

the inspector shall, if the inspector is of the opinion that the appointment threatens or tends to threaten the safety or health of persons in, on or about the mine, notify the chief inspector who, if the chief inspector concurs with the opinion of the inspector may cancel such appointment.

(4A) Notice of such cancellation shall be sent to the owner, authorised representative or manager of the mine concerned.

(4B) If the chief inspector cancels any such appointment the person who was appointed to assist the manager shall forthwith cease to act in that capacity.

(4C) The chief inspector may require by notice to the owner, authorised representative or manager of the mine concerned that another appointment be made in lieu of that which was cancelled and may specify the minimum qualification that the appointee shall possess, and thereupon, the owner, authorised representative or manager of the mine concerned shall make another appointment in accordance with the chief inspector's specification if it be possible to do so.

(5) Every person appointed under this section for the purposes of section 35 shall, in the absence of the manager and until some other person is appointed manager or acting manager, be subject to the same duties, obligations and liabilities under this Act as the manager.

(6) An appointment of any person under this section shall not be deemed to affect, in any way, the obligations and liabilities under this Act of the manager of the mine concerned.

Daily supervision

35.(1) The manager or some person appointed pursuant to section 34A to assist the manager in that behalf shall exercise daily personal supervision of all working parts of a mine.

(2) The manager or person assisting the manager referred to in subsection (1) shall at least once in each week make in the record book an entry certifying that such supervision has been exercised.

Weekly inspection of a mine

36.(1) The manager or a person appointed pursuant to section 34A to assist the manager in that behalf shall make a weekly inspection of all parts of the mine, and all machinery, plant and works used in, on or about the mine and shall enter in the record book an entry—

- (a) certifying that such inspection has been made; and
- (b) recording the findings of the manager or person appointed to assist the manager consequent upon such inspection; and
- (c) specifying the precautions, repairs or alterations which, in the manager's opinion, are required to ensure greater safety to the workers;

and shall initial such entry.

(1A) When that inspection and entry are made by a person other than the manager, the manager shall read and initial the entry.

(2) In any mine in respect of which the chief inspector has so approved in writing, when a weekly inspection referred to in subsection (1) is made by a person other than the manager, that person, instead of making the entry in the record book required by subsection (1) may make a full report of that person's inspection to the manager particularising the matters required to be certified in such entry.

(3) The manager or any person appointed to assist the manager under section 34A shall thereupon make an entry in the record book required by subsection (1) which entry shall be based upon the report so made by the person who made the inspection.

(4) If that entry is made by a person other than the manager, the manager shall read such entry and shall initial the entry.

Manager of a mine worked by contractor or tributer

37.(1) When a mine or part of a mine is subject to an agreement between the owner, authorised representative or manager thereof and a contractor or tributer who is to work in that mine or part, there shall be read into every such agreement a term that the manager of the mine appointed by the owner or authorised representative thereof shall have the supervision and control of all work to be performed by such contractor or tributer in, on or about the

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mine or part, as the case may be, and for this purpose the manager of the mine appointed by the owner or authorised representative thereof shall be deemed to be the manager appointed by such contractor or tributer in respect of the mine or part thereof to be worked by such contractor or tributer unless such contractor or tributer, with the consent in writing of the owner, authorised representative or manager with whom the contractor or tributer has such agreement, appoints a manager of that mine, or part, to supervise and control the work to be performed in, on or about that mine or part.

(1A) The contractor or tributer who appoints a manager shall notify such appointment and any change in that appointment in accordance with section 27.

(2) When the contractor or tributer appoints a manager of the mine or part wherein the contractor or tributer is to work that manager shall, for the purposes of this Act, be deemed the manager of the mine or part, as the case may be, in lieu of the manager of the mine or part appointed by the owner or authorised representative of such mine and such lastmentioned manager shall be relieved of his or her obligations and liabilities under this Act in respect of the mine or part, as the case may be.

(3) When a part only of a mine is to be worked by a contractor or tributer and such contractor or tributer appoints his or her own manager of that part the owner, authorised representative or manager of the mine and such contractor or tributer shall clearly set out in writing and delineate the part or parts of the mine in respect of which the obligations and liabilities under this Act imposed on a manager of a mine shall devolve upon the manager appointed by such contractor or tributer and the part or parts of the mine in respect of which such obligations and liabilities shall remain with the manager appointed by such owner or authorised representative.

(4) When a mine, or part of a mine, is being worked, or is to be worked, by a contractor or tributer such contractor or tributer, with respect to that mine or part, as the case may be, shall be subject in all respects to the provisions of this Act which impose duties, obligations or liabilities upon an owner or authorised representative of a mine and, to that intent, those provisions shall be construed as though the terms “contractor or tributer” appeared therein instead of the term “owner or authorised representative”.

Accident to be evidence of negligence

38.(1) The occurrence of an accident in, on or about a mine shall be prima facie evidence of negligence on the part of the manager.

(2) This section does not apply in respect of any action or other proceedings for the recovery of damages in respect of death or injury caused to a person by an accident which occurred in, on or about a mine.

Notice of an accident

39.(1) When an accident causing death or serious bodily injury has occurred in, on or about a mine, the manager shall ensure that the place where the accident occurred is not interfered with except to the extent necessary for and for the purpose of saving life, attending to the injured or preventing injury to any person or damage to any property, and forthwith shall give notice of the accident to—

- (a) the inspector, or, if the inspector is not then available, to the warden; and
- (b) a district workers' representative.

Examination of the place of accident

(2) An examination of the place where the accident occurred shall be made as soon as practicable by the inspector, or, in the inspector's absence, by 2 competent persons appointed by the warden or, in the absence of the warden, appointed by a justice of the peace.

(2A) A district workers' representative or, if the representative is not then available, 2 local workers' representatives may also examine the place where the accident occurred.

(3) Within 1 week after the occurrence of any accident in on or about a mine resulting in death or serious bodily injury to any person, the manager shall send a written report to the inspector containing a correct statement of all the circumstances surrounding the occurrence as known to the manager.

(4) Not later than the 14th day of the month following the month in which it occurred, the manager shall inform the inspector in writing of the details as known to the manager of every accident which has occurred in, on or about the mine and which has resulted in loss by any person of working time in, on or about the mine.

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(5) Forthwith after the occurrence of—

- (a) any breakage of any part of the winding machinery at any mine, or any overwind, or any accident of any kind in connection with the winding arrangements;
- (b) any subsidence, settlement or fall of ground whether as a result of blasting or otherwise, or any collapse of any part of the workings of a mine;
- (c) any outbreak of fire above or below ground at any mine;
- (d) any breakage of a cable, chain, or other gear by which persons are lowered or raised;
- (e) any inrush of water from old workings or other source;
- (f) any accidental ignition of gas or dust below ground or the discovery of the presence of noxious or flammable gas or of an outburst of noxious or flammable gas in any part of a mine;
- (g) any accidental ignition or detonation of explosives;
- (h) any overturn, collision or uncontrolled movement of a unit of mobile equipment including a fall or slide over the edge of a dump, stockpile or bench or into an excavation;
- (i) any capsize, sinking or flooding of a dredge or floating concentrating plant;
- (j) any breach or slumping of a wall of a dredge pond;
- (k) any spill or discharge of a cyanide compound;

where such occurrence could have caused or could result in or could indicate the presence of conditions which could cause or could result in death or serious bodily injury to any person or substantial damage to property or equipment whether or not any bodily injury to any person or damage to property has resulted from such occurrence, the manager shall give notice thereof to the inspector, or, if the inspector is not then available, to the warden, and shall furnish the inspector or warden, as the case may be, with such particulars in respect thereof as the inspector or warden may ask for, and shall record particulars of such occurrence in the record book.

Offences in relation to accidents

40.(1) A manager who fails to give a notice required to be given by the manager under section 39 commits an offence against this Act.

(2) Any person (including a manager) who conceals any particulars or who gives or tenders false or misleading particulars regarding an accident in, on or about a mine or regarding the nature of an injury caused by such an accident commits an offence against this Act.

Employees to inspect equipment and report accidents

41.(1) Every person employed in, on or about a mine—

- (a) shall, before commencing the person's work, and during the course of the person's work, take reasonable care to ascertain that all machinery and equipment to be used, or being used, by the person and the place in which the person is to work, or is working, is not unsafe;
- (b) shall not use any machinery or equipment, or work in any place which is unsafe;
- (c) who notices in, on or about that mine anything likely to produce danger of any kind to any person shall forthwith report the same to the manager;
- (d) who has knowledge of the occurrence of an accident in, on or about that mine shall report such accident to the manager as soon as possible after its occurrence.

(2) A person who fails to comply with the provisions of subsection (1)(a), (c) or (d) or, in the case of paragraph (b), knowingly contravenes the provisions of that paragraph, commits an offence against this Act.

Inquiries into serious accidents.

42.(1) In every case of accident causing death or serious bodily injury, an inquiry into the nature and cause of such accident shall be held, unless determined otherwise by the Minister, before the warden and 4 persons

having practical knowledge and skill in the mining industry (“**reviewers**”) selected by the warden, and having no connection with the mine where the accident occurred.

(1A) Where there is an association representative of mine employees, the secretary or other person authorised by such association may from time to time furnish to the warden a list or revised list of the members thereof for the use of the warden in the selection of reviewers for any inquiry held under this section, and the warden may select 1 or more of such members who are not otherwise disqualified by the provisions of this section.

(2) In the case of an inquiry into a fatal accident the warden shall, at least 4 days before such inquiry is held, give notice of the time and place of holding the inquiry to the owner, authorised representative, or manager of the mine in, on or about which the accident has occurred, and to the inspector and to the principal officer of police in the police district in which the mine is situated, the district workers’ representative and also to the widow or nearest of kindred of the deceased, if such widow or nearest of kindred resides in Queensland and the address of such person is known to the warden.

(2A) In the case of an inquiry into an accident causing serious bodily injury, the warden shall give like notice in like manner to such owner, authorised representative or manager and to the inspector and to such person resident in Queensland as the injured person may name.

(2B) The person injured and any person to whom notice is given shall be entitled to be present at the inquiry and to call, examine, and cross-examine any witness either in person or by the person’s counsel, solicitor, or agent.

(3) When all evidence adduced at the inquiry has been heard the reviewers shall record their finding as to the nature and cause of the accident, and shall make such recommendations as they deem pertinent with a view to the prevention of a similar accident and the warden shall make the warden’s report as to the nature and cause of the accident.

(3A) The warden shall announce the warden’s finding before closing the inquiry.

(3B) The warden shall send to the Minister for Justice and Attorney-General for the State of Queensland the depositions containing the

evidence given at the inquiry, the finding and recommendations of the reviewers and the warden's own report, and shall send copies of the same to the Minister.

(4) This section and section 43 apply subject to the *Commissions of Inquiry Act 1950*, section 4A.

Inquiry in other cases

43.(1) A warden, inspector or district workers' representative may request the Minister, in writing, that an inquiry be held under section 42 into any accident which has occurred in, on or about a mine.

(2) The Minister, on the Minister's own initiative or when requested so to do by any person referred to in subsection (1), may order an inquiry to be held under section 42 into any accident which has occurred in, on or about a mine, if the Minister is satisfied that the circumstances as known to the Minister warrant it.

(3) When the Minister so orders, an inquiry into such accident shall be held in the manner provided by section 42.

Powers of warden upon inquiry

44.(1) A warden holding an inquiry under section 42 shall have the powers of a warden's court under the principal Act and the powers of a warden holding an inquiry conferred by the principal Act and the regulations made thereunder.

(2) A warden holding an inquiry under section 42 may by writing under the warden's hand summon any person to attend before such inquiry and give evidence material to that inquiry and to produce any books, documents or writings in the person's custody or under the person's control which may be set out in the summons and such summons shall be deemed to be a summons to a person to appear as a witness issued by a warden under the principal Act and the regulations made thereunder and to be subject to the provisions of the principal Act and those regulations.

Action against holder of a certificate

45.(1) If the warden finds that the accident was caused, directly or indirectly, by the non-observance of any provision of this Act by the holder of a certificate, licence or authorisation under this Act, or by reason of the negligence of such a holder, the warden may suspend the certificate, licence or authorisation of such holder until the matter has been determined by the board of examiners.

(2) The warden shall cause notification of every such suspension to be given forthwith to the board of examiners.

(3) Upon receipt of a notification of suspension effected under this section the board of examiners shall forthwith call upon the person whose certificate, licence or authorisation has been suspended to show cause to the board why the certificate, licence or authorisation so suspended should not be further suspended or cancelled or otherwise dealt with at the discretion of the board.

(4) During the period of suspension effected by this section the person whose certificate, licence or authorisation has been suspended shall be deemed not to be the holder of a certificate, licence or authorisation granted under this Act.

Scheme to facilitate supply of information on mining accidents and incidents

45A.(1) The Minister may authorise a scheme to facilitate the supply of information in the possession of the Department of Mines as to the facts relating to any mining accident or incident whereby death or injury has been caused to any person or damage has been caused to any property, to any person who or whose property has been involved in that accident or incident or to the agent, employee or other representative of that person, and to any insurer or other person having a bona fide interest in that accident or incident.

(2) Any such scheme may provide for the payment of fees for the supply of that information on any basis or bases set out in the scheme.

(3) The supply in pursuance of any scheme under this section of any information in relation to any accident or incident of a kind referred to in

this section shall not render the Crown, the Minister nor any officer of the Department of Mines, liable in any way in law in respect thereof.

Restrictions on employment of persons

46.(1) No person under the age of 21 years shall be appointed or shall act as mine manager.

(2) No person under the age of 16 years shall be employed underground in a mine except with the approval of the chief inspector.

(4) No person under the age of 18 years shall be employed in a hazardous place in a mine.

(5) The manager shall keep in the office of the mine, a register, and shall cause to be entered therein the name, age, residence, date of first employment underground and nature of that employment of all persons under the age of 18 years employed underground in the mine and any change in the nature of such employment of any of such persons.

(6) The manager shall, by way of such tests or examinations as the manager considers appropriate, assure himself or herself that every person employed underground has the physical capacity to perform the work likely to be required of that person.

Winding engine to be in the charge of a licensed person

47.(1) Subject to the provisions of this section every winding engine, while it is being operated, shall be in the charge of and under the personal supervision of a licensed person.

Winding permit

(2) Any inspector may issue a winding permit, subject to such conditions as the inspector may deem fit, to a person who, in the opinion of the inspector, is a competent person and who holds a medical certificate referred to in section 48 and any inspector (whether the same or another inspector) may, from time to time, vary the conditions upon which the same has previously been issued or renewed.

(2A) A winding permit shall be of force and effect only in relation to the mine specified therein.

(2B) Any inspector may cancel a winding permit at any time by notification in writing to that effect given to the person to whom the permit was issued or renewed and may call upon such person to surrender the permit to the inspector.

(2C) A person so called upon shall forthwith surrender such permit to the inspector.

(2D) When an inspector has cancelled a winding permit the person to whom the same was issued or renewed shall forthwith cease to be the holder of such a permit whether or not that person has surrendered the permit to the inspector.

(2E) The holder of a winding permit may operate or be in charge of a winding engine of a size not exceeding 30 kW and of a type, and in accordance with the conditions, specified in the permit.

Winding engines operated underground not exceeding 10 kW

(3) A competent person not being the holder of a winding licence granted or a winding permit issued under this Act may operate or be in charge of a winding engine which is operated underground and which—

- (a) is powered by air or electricity or is operated by the force of gravity; and
- (b) is of a size not exceeding 10 kW; and
- (c) has been installed in such manner as an inspector has approved; and
- (d) is operated under such conditions as an inspector has approved; and
- (e) is not being used to raise or lower a person.

Trainee winding driver

(4) A trainee winding driver whose name, age and address have been previously notified in writing to the inspector, may operate, or be in charge of, a winding engine under the personal supervision of a licensed person.

Offence to permit an unlicensed person to operate a winding engine or for an unlicensed person to operate such an engine

(5) A manager who permits any person to operate or to be in charge of a winding engine, and any person who operates or is in charge of a winding

engine, commits an offence against this Act unless such person is either—

- (a) a licensed person; or
- (b) a competent person who is operating or is in charge of the winding engine in accordance in all respects with the provisions of subsection (3); or
- (c) a trainee winding driver operating or in charge of the winding engine in accordance in all respects with the provisions of subsection (4).

Application for exemption

(6) The owner, authorised representative or manager of any mine may make application to the inspector for exemption from the provisions of this section in respect of the operation of any cage, skip or other conveyance in, on or about the mine, which is, or is to be, operated by electrical power.

(6A) Every such application shall be in writing and shall adequately describe the type of conveyance the subject of the application and shall set out the number and position of the control stations from which the operation of such conveyance is, or is to be controlled and shall set out the arrangements that have been made for the proper supervision and efficient functioning of the electrical and other machinery and apparatus used in the operation and control of such conveyance.

(6B) Upon receipt of such application the inspector shall, after inquiry and inspection, make the inspector's report and recommendation and forward the same for the Minister's consideration.

(6C) If the Minister is satisfied that the cage, skip or other conveyance, the subject of the application, can be safely operated and controlled by a person other than a licensed person and that adequate arrangements have been made for the proper supervision and efficient functioning of the electrical and other machinery and apparatus used in the operation and control of such cage, skip or other conveyance, the Minister may exempt the cage, skip or other conveyance in respect whereof the application is made from being operated in compliance with this section.

(6D) The Minister may, at any time, revoke an exemption granted by the Minister under subsection (6C).

Meaning of “mine” and “licensed person”

(7) In this section—

- (a) the term “**mine**” means a place where an operation for the purpose of obtaining metal or mineral has been or is being carried on, but does not include a place on the surface where the products of any such place have been or are being treated or dealt with and, for the purposes of this section, the term “**mine**” in the definition “winding engine” in section 5 shall be deemed to have the same meaning;
- (b) the term “**licensed person**” means a person who is the holder of a winding licence granted or a winding permit issued under this Act and, where such a licence or permit is subject to any conditions or limitations imposed by this Act or otherwise, means a person who being such a holder is operating or in charge of a winding engine in accordance in all respects with such conditions and limitations.

Medical certificate for licensed person in charge of winding engine

48.(1) Every licensed person who operates or is in charge of a winding engine in, on or about a mine shall hold a medical certificate, which shall be renewed or endorsed at intervals not exceeding 2 years or at such lesser intervals as the owner, authorised representative or manager or inspector may require certifying that the holder is free from deafness, defective vision, epilepsy, disease of the heart and any other infirmity which might cause the person to lose control of the engine.

(2) A person who, in the opinion of 2 medical practitioners legally qualified to practise in Queensland, is not in a fit state of health to operate or to have charge of a winding engine in, on or about a mine shall not operate or be in charge of such an engine.

(3) A person, being subject to the provisions of this section, who operates or is in charge of a winding engine in on or about a mine and who—

- (a) has not complied with this section; or
- (b) by so operating or being in charge, contravenes any provision of this section;

and any person who employs such a person to operate or to be in charge of such winding engine commits an offence against this Act.

(4) In this section the term “**licensed person**” means a person who is the holder of a winding licence granted or a winding permit issued under this Act.

Maximum period for operation of winding engine

49.(1) A person shall not operate or be in charge of a winding engine used in connection with any mine, nor shall any person so employ another, for more than 8 consecutive hours at any time, nor for more than 8 hours in any period of 24 hours unless with the written permission of the inspector first had and obtained.

(2) The period of 8 hours shall, in either case, be calculated exclusively of—

- (a) meal times; and
- (b) any period during which such person is not operating such winding engine due to a breakdown of that engine or equipment used in connection therewith or to any other emergency in, on or about the mine concerned.

(3) Nothing in this section shall render liable to a penalty under this Act any person who operates or is in charge of a winding engine used in connection with a mine, or any person who so employs another, for a period in excess of 8 consecutive hours or in excess of 8 hours in any period of 24 hours if such operation, being in charge of or employment is due to an emergency in, on or about the mine concerned.

Report of negligence with respect to winding engine

50.(1) When a person who is operating or is in charge of a winding engine in, on or about a mine, has exhibited negligence or misconduct in the performance of the person’s duties, whereby the life or safety of any person was or might have been endangered, the manager of the mine concerned shall forthwith report the particulars of the incident to the inspector who, if the inspector be other than the chief inspector, shall forthwith report such particulars to the chief inspector.

(2) In this section and sections 48 and 49 the term “**mine**” has the same meaning as assigned to that term in section 47.

Underground workings of a mine to be surveyed

51.(1) The owner, authorised representative or manager of a mine where 6 or more persons are ordinarily employed underground and, in any other case if the Minister so directs by notification published in the gazette, shall cause all the underground workings of the mine to be surveyed by an authorised surveyor or a certificated mine surveyor or other competent person being the holder of an authorisation granted by the board of examiners and shall cause accurate plans of such underground workings to be compiled.

(2) The owner, authorised representative or manager of a mine shall keep in the office at the mine, or, should there be no such office, then in such other place at the mine as the inspector may approve the plans of the underground workings of the mine compiled under subsection (1).

(3) At least once in every period of 6 months the owner, authorised representative or manager of a mine shall cause a survey to be made, in the manner provided in subsection (1), of all underground workings and underground extensions of the mine which have been added or opened up since the making of the previous survey of underground workings of the mine and shall cause the results of such survey to be delineated on the plans kept under subsection (2).

(4) The plans to be kept under this section shall include—

- (a) a plan showing the position of all shafts, open cuts and openings from the surface to underground workings erected, effected or made in, on or about the mine and their relation to all mining tenements on or in which the mine, or any part thereof, is situated;
- (b) a plan of all underground workings to a scale not greater than 1:250 and not less than 1:750 except as may be otherwise approved by the inspector, showing the levels superimposed one upon another, but if, in the opinion of the inspector the lower levels cannot thereby be shown clearly, the inspector may require that instead of such superimposition there shall be included such

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plans of each level or groups of levels as the inspector may deemed to be required to clearly show the workings in each level;

- (c) if required by the inspector, longitudinal sections to the same scale as the plans of the underground workings showing all stoping, and sufficient cross sections to the same scale to clearly show the reefs, ore bodies and workings.

(5) The owner, authorised representative or manager of a mine shall—

- (a) if requested by the inspector or other person authorised in writing by the Minister, produce to such inspector or other person the plans kept under this section and, if requested by the person to whom production is to be made, mark or cause to be marked on such plans prior to their production the progress of the underground workings of the mine up to the time of such production;
- (b) allow the inspector or other person authorised in writing by the Minister to examine and to make a copy of the plans produced under paragraph (a);
- (c) if requested by a district workers' representative or a local workers' representative make available for inspection by any of such representatives the plans kept under this section.

(6) Unless otherwise directed by the chief inspector in writing, the owner, authorised representative or manager of a mine shall, once in every year, send to the inspector a copy of all plans kept under this section.

(6A) Such copies shall bear or be accompanied by a certificate of an authorised surveyor, a certificated mine surveyor or other competent person being the holder of an authorisation granted by the board of examiners certifying that—

- (a) the copy plans sent to the inspector are accurate copies of the plans whereof they purport to be copies; and
- (b) the plans whereof such copy plans purport to be copies are accurate plans of the underground workings of the mine compiled from surveys made under this section; and
- (c) a date specified in such certificate is the date to which the plans of surveys made under this section have been compiled and whereof the copy plans purport to be copies.

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(7) Every copy plan sent to the inspector under this section shall be deposited with such person at such place as the Minister may appoint.

(8) If the Minister is of opinion that any copy plan received by the inspector under this section is incomplete or incorrect the Minister may cause a check survey to be made of the underground workings of the mine in question by such person as the Minister may appoint, and if the copy plan is proved by such check survey to be incomplete or incorrect in any material respect the owner, authorised representative and manager of the mine in question shall be severally liable to pay the costs and expenses of such check survey and the compilation of a plan therefrom and properly incurred in connection therewith.

(8A) Such costs and expenses may be recovered as a debt due to the Crown.

(9) The owner, authorised representative or manager of any mine who—

- (a) fails to keep plans prescribed by this section or fails to send copies of plans prescribed by this section; or
- (b) refuses to produce plans or make plans available for inspection as prescribed by this section or wilfully obstructs the inspector or other person in making an examination or a copy of plans as prescribed by this section; or
- (c) fails to mark plans as prescribed by this section or conceals any part of the underground workings of the mine; or
- (d) produces plans which are inaccurate in a material respect;

commits an offence against this Act.

(9A) It shall be a defence to an offence defined in subsection (9)(d) that the owner, authorised representative or manager, as the case may be, charged with that offence did not know and had no reasonable means of knowing that the plans produced were inaccurate in a material respect.

(10) Any person who—

- (a) makes a certificate prescribed by this section in respect of a plan or copy of a plan of a kind referred to in this section which is false or misleading in a material respect; or

- (b) not being an authorised surveyor, a certificated mine surveyor or the holder of an authorisation granted by the board of examiners, makes a certificate prescribed by this section;

commits an offence against this Act.

Plans not to be shown to persons other than owner, authorised representative or manager

52.(1) Except with the permission, in writing, of the Minister, the plan of the underground workings or open cuts on or in a current mining tenement sent to the inspector or made by the inspector or other person under this Act shall not while such tenement remains a current mining tenement be furnished to or be made available for inspection by any person other than the owner, authorised representative or manager of a mine on such tenement and, except as aforesaid, no information with respect to any such plan, shall during a like period be given to any person other than such owner, authorised representative or manager.

(2) This section shall not be construed to obstruct any person who is discharging the person's functions under this Act from viewing and obtaining information from and in respect of such plan.

Applications to warden to enter a mine

53.(1) Upon application made to the warden by—

- (a) any person claiming to be interested in a mine adjacent to another mine; or
- (b) any person claiming to be interested in land adjacent to a mine; or
- (c) any local government, within the meaning of the *Local Government Act 1993*, having control of a road adjacent to a mine;

supported by such evidence as the warden think proper, the warden may, by the warden's order, authorise any such person or local government, or his, her or its surveyor, or both, to enter on the mine to which their mine, land or road is adjacent to ascertain—

- (d) whether any encroachment exists, and the extent of that encroachment, if any; or

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- (e) whether there is a flow of water from that mine or an accumulation of water therein or thereon; or
- (f) whether any surface rights are being interfered with or endangered; or
- (g) any other matter to ascertain which it is necessary in the warden's opinion to make such entry.

(2) Before making such an order, the warden may—

- (a) direct that notice of the application be served upon or sent to the owner or authorised representative of the mine on which entry is sought to be made and that such owner or authorised representative have the opportunity of adducing evidence upon the hearing of the application and of being heard in opposition to the application, and, for this purpose, may adjourn the application;
- (b) require the applicant to deposit with the warden's court such sum of money as the warden thinks sufficient to cover the cost of the inspection and survey (if any) sought to be made and compensation to the owner or authorised representative of the mine on which entry is sought to be made for any loss, damage or expense which may be caused to such mine or to machinery, apparatus or structures in, on or about such mine, or to the owner or authorised representative of such mine, in consequence of an entry made under such order.

(3) Every person so authorised may thereupon together with the person's employees enter upon the mine described in the order, descend such mine or shaft and make such inspection and, if a surveyor, such survey, sections, and plans as the surveyor deems necessary, and, for those purposes, avail himself or herself of the engines, machinery and appliances used in the ordinary operations of the mine; and the manager of the mine concerned shall render all necessary assistance to the person so authorised and to the person's employees.

(4) The warden may defray the cost of such inspection and survey (if any) made under such order out of any sum which has been deposited in the warden's court in respect of such inspection or survey and—

- (a) if the manager of the mine concerned has, in the opinion of the warden, rendered all necessary assistance in accordance with the provisions of this section; and
- (b) if there has been no justification for the inspection, in the opinion of the warden;

the warden may pay compensation, out of any sum which has been deposited as aforesaid, to the owner or authorised representative of the mine concerned for any loss, damage or expense which, in the warden's opinion, has been caused to such mine or the machinery, apparatus or structures in, on or about such mine or to the owner or authorised representative of such mine, in consequence of such inspection.

(4A) Subject to the payment thereout for the purposes hereinbefore in subsection (4) provided for, the warden shall pay the sum deposited in the warden's court in respect of an inspection or survey under this section to the person or persons who made such deposit and, if more than 1, in such proportions as those persons may, in writing, direct.

(4B) Nothing in this section shall prejudice the right of the owner or authorised representative of a mine upon which entry has been effected under this section to recover in full from the person or persons who may, by due process of law, be liable to the owner or representative therefor, compensation for loss, damage or expense caused to his or her mine or the machinery, apparatus or structures in, on or about such mine or to himself or herself in consequence of such entry.

Warden may order inspection of plans

(5) Upon an application made under this section, the warden may order that the plans of the underground workings or open cuts of the mine upon which entry is sought in such application, which plans are kept under this Act or so much thereof as the warden may consider necessary, shall be made available for inspection by the applicant, or some other person specified by the warden, on behalf of the applicant, if the warden is of the opinion that such an inspection of the plans, or portion thereof, may be sufficient for the purpose of such application.

(5A) When the warden has made such an order, the manager of the mine concerned shall forthwith produce to the applicant, or such other person on the manager's behalf, the plans or portion thereof, the subject of the warden's order.

(5B) When the warden has made such an order, the warden shall not order an entry upon the mine concerned unless the warden is satisfied that an inspection of the plans, or portion thereof, has proved insufficient for the purpose of such application.

Offences

(6) Any person who —

- (a) except as a witness in any court, divulges to any person any information obtained as a result of an inspection of plans, or portion thereof, under this section, or as a result of an entry upon a mine under this section, otherwise than for the purposes of such inspection or entry, as the case may be; or
- (b) being the manager of the mine upon which entry is sought, fails to make available for inspection the plans of the underground workings or open cuts of the mine, or portion thereof, when an order has been made therefor by the warden under this section; or
- (c) being the manager of the mine upon which entry has been authorised under this section fails to render all necessary assistance to the person or persons making such entry for the purpose of making such inspection or survey (if any);

commits an offence against this Act and is liable to a penalty not exceeding 40 penalty units.

PART 5—REGULATIONS AND RULES

Power to make regulations

54.(1) Subject to the provisions of section 55 where they are applicable, the Governor in Council may from time to time make regulations not inconsistent with this Act which are necessary or desirable or convenient for carrying this Act into effect or for achieving or for the better achieving the objects and purposes of this Act, and without in any way limiting the generality of the foregoing powers, for all or any of the following matters—

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- (a) the rights, powers, duties, obligations and practices of persons in, on or about mines in respect of matters which might affect the safety or health of such persons;
- (b) the rights, powers, duties, obligations and practices of owners, authorised representatives and managers in, on and about mines in respect of matters which might affect the safety or health of mine employees;
- (ba) the rights, powers, duties, obligations and practices of owners, authorised representatives and managers in respect of the affect of the operation of a mine or activities associated therewith on the safety or health of any person or class of persons;
- (c) the ventilation of mines and the control of dust therein;
- (d) ladders and travelling ways in, on or about mines and the use thereof;
- (e) machinery, engines and winding engines and explosives in, on or about mines and the use and control of those things and the persons who are to be in charge of those things;
- (ea) noise, ground and air vibrations, ionising and non-ionising radiation, toxic substances, lighting of places, personal protective equipment, design of excavations, fire prevention and control, design and construction of dams, dumps and stockpiles, means of conveying persons, minerals, mineral products and wastes, mining materials and communication lines in, on or about mines;
- (f) the principles and practices of sanitation and hygiene to be observed and applied in, on or about mines;
- (g) the medical examination, or examinations, of persons employed in on or about mines with a view to the prevention, detection and treatment of injury to or disease of any such persons;
- (h) regulating or prohibiting the employment in on or about mines of persons whose health is affected by, or suspected of having been affected by, or likely to be affected by such employment;
- (i) dredges and the use thereof and the persons who are to be in charge of such things in, on or about mines;

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- (j) electricity, and the method of connecting same to or in a mine and the use and control thereof in, on or about mines;
- (k) the application for, grant, suspension, revocation, cancellation and restriction of certificates, licences and authorisations granted or to be granted by the board of examiners;
- (ka) guidelines or requirements for the training of persons employed in or about a mine in any capacity, the issuing by persons other than the board of examiners of appropriate forms of certification relating to a person's competency in the performance of any work and the suspension or cancellation of any such form of certification;
- (l) prescribing forms to be used for any purpose prescribed or authorised by this Act and the use to be made of those forms;
- (m) the manner in which powers conferred by this Act may be exercised;
- (n) fixing of fees to be paid pursuant to or in connection with this Act;
- (o) the regulation, inspection, preservation, maintenance, and protection of places, once mines, which are disused for mining or abandoned and of every part thereof; the safety of and the prevention of accidents in such places; the steps to be taken by persons (including occupiers for the time being of the surface of such places) thereby required, from time to time, to secure such preservation, maintenance, protection, safety, and prevention of accidents;
- (p) the granting of exemption or conditional exemption from compliance with the regulations or any of them; the entitlements of persons so exempted; revocation of any exemption or conditional exemption so granted.

Application of regulations

(2) Regulations made under this Act may be confined, by express declaration therein, to a part or parts of Queensland or to a part or parts of any area outside Queensland to which this Act may, from time to time, apply, or to a particular mine or class of mine but, unless so confined, shall apply, subject to the provisions of section 6(3), to every mine within

Queensland and to every mine in an area outside Queensland to which the Governor in Council may, from time to time, by proclamation apply this Act.

(3) Regulations may be made on the passing of this Act.

Variation of regulations by inspector

54A.(1) An inspector may direct or allow a regulation or part thereof to be varied or otherwise modified in respect of its application to the working of a particular mine where—

- (a) there is provision in that regulation for variation or modification by an inspector; and
- (b) the variation or modification is not inconsistent with the provisions of this Act (other than the provisions of that regulation).

(2) The provisions of sections 55 and 56 shall not apply to such variation or modification.

Regulations may adopt standards etc.

54B. The regulations may—

- (a) adopt in whole or in part and either by way of reference or by way of express specifications therein, any of the standard rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution or a like body identified in the regulations, or a code of practice given effect under any law of the Commonwealth or any State;
- (b) provide for the approval of an inspector to be the standard to be applicable in respect of a particular matter.

Notice of alterations to regulations

55.(1) If it appears to the Governor in Council that it is necessary, desirable or convenient to make any regulation under this Act, the Minister shall publish a notice in the gazette, on such number of occasions as the Minister may think sufficient, and in such other manner as the Minister may

think desirable, stating the intention of the Governor in Council to make such regulation and the text of the same.

(1A) A copy of the gazette containing such notice shall be exhibited at each warden's office in Queensland.

(2) If, within 1 month from the date of publication of such notice, sufficient cause is not shown to the Governor in Council why the proposed regulation should not be made, the Governor in Council may make the regulation.

(2A) For the purpose of this section the date of publication of a notice shall be the date or, where there has been more than 1 publication the last date, on which the notice stating the intention of the Governor in Council to make such regulation is published in the gazette.

(3) No regulation shall be deemed invalid or to be of no force or effect by reason only that a copy of the gazette containing a notice of intention referred to in this section was not exhibited at every warden's office in Queensland in accordance with subsection (1A).

Publication of proclamations and orders in council

56. The *Acts Interpretation Act 1954*, section 28A (which requires regulations to be published in the gazette and laid before the Legislative Assembly as prescribed therein) applies in relation to proclamations and orders in council made under this Act as if they were regulations.

Special rules

57.(1) The inspector may, by notice in writing, require special rules to be drawn up by the manager of a mine to take account of local conditions affecting that mine and to be applied in that mine.

(1A) Such notice shall state a time within which such rules must be drawn up and submitted to the chief inspector.

(1B) Such rules shall be observed by the persons employed in, on or about the mine to which the rules apply with a view to the maintenance of order and discipline, the protection of the safety and health of such persons,

the protection of the safety and health of persons affected by the operation of the mine (whether in, on or about a mine or not) and the prevention of accidents.

(2) No special rule shall be drawn up or applied which is inconsistent with this Act.

(3) Every special rule shall be submitted to the chief inspector who shall submit the same to the Minister who may, by notice, require it to be altered in any respect in which it appears to the Minister to be unreasonable and within such time as the notice might specify.

(4) The Minister may approve of a special rule when the Minister is of opinion that it is reasonable.

(5) Every special rule, when approved by the Minister, shall be published in the gazette and shall thereupon—

- (a) be judicially noticed; and
- (b) be applicable to the mine for which it was drawn up to the same extent and have the same force and effect as if it were a regulation made under this Act.

(6) A manager who fails to comply with a notice under this section commits a continuing offence against this Act and is liable to a penalty not exceeding 20 penalty units and, in addition, to a penalty not exceeding 2 penalty units for each day during which the manager's noncompliance continues.

(7) Without prejudice to other means of proving the issue and existence of a notice under this section, a duplicate original of such a notice purporting to be under the hand of the person authorised by this Act to issue the same shall upon its production in any proceeding be prima facie evidence that such notice has been properly issued under this section and that it has not been revoked or varied as at the date of its production in that proceeding.

Revocation of approval to special rule

58. If, at any time, the Minister is of opinion that a special rule applicable to a mine should not continue to apply to that mine, the Minister may by

notice published in the gazette revoke the Minister's approval to that special rule and upon such publication such special rule shall cease to apply to the mine concerned.

Regulations and special rules to be exhibited

59.(1) The owner, authorised representative or manager of every mine shall cause to be exhibited and to be kept exhibited in some conspicuous place or places at that mine a copy of the regulations, or such part thereof as the chief inspector may, either generally or in a particular case, direct and the special rules, if any, applicable to that mine.

(2) The owner, authorised representative or manager of a mine who fails to comply with subsection (1) commits a continuing offence against this Act and is liable to a penalty not exceeding 20 penalty units and, in addition, to a penalty not exceeding 2 penalty units for each day during which such offence continues.

PART 6—MISCELLANEOUS PROVISIONS

Obstruction to compliance with this Act null and void

60. A term of an agreement which purports to obstruct any person in complying with this Act or special rules applicable to a mine, or which has the effect of so doing, or which purports to penalise any person, or has the effect of so doing, in consequence of the person's complying or intending to comply, with this Act or special rules applicable to a mine, is null and void.

Complaint by employee

61.(1) Any mine employee, either personally or by a representative, may make complaint to an inspector, touching an alleged breach of the provisions of this Act or of special rules applicable to a mine or any thing or practice connected with a mine alleged to be dangerous and upon receipt of

such a complaint an inspector shall investigate the matter of complaint and take such action as, in the inspector's opinion, is required to remedy such matter.

(2) The name of such employee or the employee's representative shall not be divulged except to an officer of the Department of Mines.

Owner may attend at treatment of the owner's ore or mineral

62.(1) When ore or mineral is being treated at a mine on behalf of a person other than the owner of such mine, such person or the person's representative may attend thereat during the whole of the period that the treatment is being carried out and may take account of the weight and value of the products of such treatment.

(2) A person who obstructs a person authorised by this section to attend at a treatment in attending at such treatment or who obstructs such a person in taking account of the weight and value of the products of a treatment commits an offence against this Act.

Returns

63.(1) The Minister may provide for use in respect of all mines or in respect of mines from time to time specified by the Minister by instrument in writing a form of statistical return and may, by instrument in writing, direct as to the manner in which statistical information is to be provided pursuant to this section.

(1A) Where the Minister—

- (a) has provided a form of statistical return for use in respect of all or particular mines; or
- (b) has directed as to the manner in which statistical information is to be provided;

a statistical return required by or pursuant to this section to be provided shall be taken to be not duly completed if, being one in respect of a mine for use in respect of which the form is provided, it is not in that form or if information therein, being such as is directed to be provided in a particular manner, is not provided in that manner.

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(2) Within 30 days after 30 June in each year the owner, authorised representative and manager of a mine shall provide the Minister with a statistical return, duly completed, in respect of that mine relating to mining during the period commencing on 1 July in the preceding year and terminating on 30 June last past.

(3) The Minister may, by instrument in writing, direct that the owner, authorised representative or manager of the mine specified therein provide to the Minister a statistical return, duly completed, in respect of that mine—

- (a) within 30 days after the end of each month, relating to mining during the month last past; or
- (b) within 30 days after the end of September, December, March and June in each year, relating to mining during the preceding 3 months; or
- (c) within 30 days after any other time specified in the instrument, relating to mining during a period specified in the instrument.

(4) Where mining operations in a mine have commenced after 1 July in any year or have ceased before 30 June in any year the period in relation to which a statistical return is required to be provided in respect of that mine pursuant to the relevant provisions of this section shall be the period that commenced on the date on which those operations commenced or, as the case may be, the period that terminated on the date on which those operations ceased.

(5) Upon his or her being satisfied that a person seeking access to the records of a mine is an officer of the Department of Mines appointed by the Minister, either generally or in a particular case, to check the correctness of statistical returns provided pursuant to this section, the owner, authorised representative and manager of the mine—

- (a) shall allow that person full and free access to all books of account, documents and other records of the mine and shall produce to that person, upon that person's request, all such books, documents and records; and
- (b) shall permit that person to make copies of and extract from any such books, documents and records.

(6) An owner, authorised representative or manager of a mine who—

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- (a) refuses or fails to comply with a provision of this section or with a direction of the Minister applicable to the owner, representative or manager; or
- (b) provides to the Minister a statistical return containing information that to his or her knowledge is false;

commits an offence against this Act.

(7) A person who obstructs or hinders or attempts to obstruct or hinder another in the discharge of the other's duties pursuant to an appointment referred to in subsection (5) commits an offence against this Act.

(8) In proceedings in respect of an offence defined in this section—

- (a) a certificate purporting to be signed by the Minister that—
 - (i) the Minister has or has not given a direction pursuant to subsection (1) or (3); or
 - (ii) a statistical return required by this section has or has not been provided in accordance with this section; or
 - (iii) a form of statistical return attached to the certificate is a form provided by the Minister under subsection (1) for use in respect of the mine or mines specified in the certificate;

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (b) a document purporting to be certified by the Minister to be a true copy of a direction given by the Minister under subsection (1) or (3) shall be accepted as evidence of that direction as if the document tendered were the original direction.

Notification before drilling

64.(1) When for the purpose of exploration it is proposed in respect of any mine to drill a borehole, or to extend an existing borehole, in either case to a depth exceeding 12 m, the owner, authorised representative or manager of the mine shall give notification of the commencement of such drilling or extension to the chief inspector within 1 week after the commencement of such work, or within such longer period as may be approved and, with such notification, shall furnish to the chief inspector full particulars of the

location, direction and proposed depth of the borehole and shall further furnish, at the same or some later time as the chief inspector may direct, such further information concerning such borehole as the chief inspector may require.

(2) The owner, authorised representative or manager of the mine shall mark any core obtained in the course of drilling such borehole, or extension (other than materials therefrom reasonably required for the purpose of assay or other testing) or, if there be no such core, samples of all materials obtained in the course of drilling such borehole or extension (other than materials obtained in surface ground or alluvial ground or reasonably required as aforesaid) in a manner directed by the chief inspector or, in the absence of such a direction, in such a manner as to clearly identify such core or samples, as the case may be.

(3) Such core or samples marked as aforesaid shall be kept in a place and manner directed by the chief inspector or, in the absence of any such direction, in a place and manner so as to preserve them, for at least 1 year after the completion of such borehole or extension.

(3A) Notification of the proposed disposal of any such core or samples shall be given to the chief inspector in writing at least 3 months prior to the disposal of the same.

(3B) Such core or samples kept under this section shall, at all times subsequent to a period of 3 months after the completion of the borehole or extension and before their disposal, be available to a government geologist, an inspector or other officer of the Queensland Department of Mines authorised in writing by the Minister in that behalf for the purpose of his or her examination or inspection and the taking of samples therefrom for the purpose of assay or other testing.

(4) In the discharge of their duties under this section a government geologist and other officer authorised in writing by the Minister shall have all the powers of entry upon or into a mine conferred on an inspector by this Act.

(5) Except for the purpose of the proper discharge of the person's duties under this section, or with the prior approval in writing of the Minister, no person shall disclose any information or knowledge which the person has acquired directly or indirectly with respect to such core or samples in the

discharge of the person's duties and the exercise of the person's powers under this section.

(6) When a contravention of, or failure to comply with, any provisions of this section or of any direction given under this section has occurred the owner, authorised representative and manager of the mine in respect of which such contravention or failure to comply has occurred commits an offence against this Act.

(7) The chief inspector may, in writing, exempt any mine from the provisions of this section other than the provisions of subsections (1) and (1A).

Offences

65.(1) A person who—

- (a) contravenes or fails to comply with a provision of this Act; or
- (b) by negligence, causes another person to be killed or injured or endangers the safety of any person in, on or about a mine; or
- (c) pulls down, obliterates or defaces a notice or document exhibited or affixed pursuant to this Act;

commits an offence against this Act.

(1A) A person who—

- (a) fails to do that which the person is directed or required to do; or
- (b) does that which the person is forbidden to do;

by a person acting under the authority of this Act or by any term, condition or restriction to which any certificate, licence, authorisation, exemption, variation or approval granted, allowed or issued pursuant to this Act is subject, commits an offence against this Act.

(2) A person who contravenes or fails to comply with a special rule for the time being applicable to a mine shall be deemed to commit an offence against this Act.

(3) In this section—

“negligence” means that degree of negligence which would render the person who thereby has caused another to be killed or injured liable for

damages in an action brought against the person by or on behalf of that other or his or her estate, as the case may require.

Penalties

(4) A person who commits an offence against this Act for which a penalty is not otherwise provided by this Act, is liable—

- (a) if the person is the owner, authorised representative, manager or other person in charge of, or giving directions relating to, the carrying on of any mining operation or machinery, plant or works in, on or about a mine, to a penalty not exceeding 40 penalty units; and
- (b) if the person is any other person, to a penalty not exceeding 20 penalty units.

Liability of persons under this Act

66.(1) When an offence against this Act has been committed or is deemed to have been committed in, on or about a mine by a person other than the owner, authorised representative or manager of that mine, then such owner, authorised representative and manager each commits an offence against this Act of failing to enforce the provisions of this Act or of the special rules applicable to that mine, as the case may be, and, whether or not the person other than the owner, authorised representative or manager has been prosecuted for or convicted of the person's offence, each may be charged with and convicted of such offence.

(2) It is a defence for the owner, authorised representative or manager or other person deemed by the provisions of this Act to be subject to the duties, obligations and liabilities of a manager, charged with an offence by virtue of the provisions of subsection (1), that he or she had taken all reasonable steps to enforce the provisions of this Act, or of the special rules applicable, as the case may be, and to prevent the commission of the offence that such other person has committed.

(3) When by this Act 2 or more persons are expressed to be subject to a liability or duty or to commit an offence against this Act, either alternatively or conjunctively, then unless the context otherwise indicates, such expression means that each of such persons is severally liable for the performance of that liability or duty or to be guilty of that offence and each

may be charged with a failure to perform that liability or duty in accordance with this Act, or with that offence, and may be convicted in respect thereof except when the liability or duty has been performed by at least 1 of such persons.

(4) When a body corporate has committed an offence against this Act the manager of that body corporate and every person who is a member of the governing body of that body corporate shall be deemed to have also committed that offence and may be convicted thereof.

(4A) It is a defence for the manager or member of the governing body, as the case may be, of such body corporate that the manager or member did not know and had no reasonable means of knowing that the offence was being committed.

(5) In any proceeding taken under this Act for the recovery of a penalty an averment in the complaint that the defendant was, at the relevant time, the owner, authorised representative, or manager of, or a person in charge of or giving directions relating to the carrying on of any mining operation, or machinery, plant or works, in, on or about a mine, or the manager, or a member of the governing body, of a body corporate shall be prima facie evidence that the defendant was, at that time, as he or she is, in the averment, alleged to have been.

Defence of impracticability

67. It is a defence to a charge of a contravention of, or noncompliance with, a regulation made under this Act or a special rule for the time being applicable to a mine, or any variation or other modification thereof, that observance of or compliance with such regulation or special rule, as the case may be, was not reasonably practicable, in the circumstances.

Limitation of term “inspector” and appeal from the decision of an inspector and the chief inspector

68.(1) When by this Act it is provided that, in relation to any mine,—

- (a) any writing, information or thing is to be given or furnished to the inspector; or

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- (b) any act, matter or thing is to be consented to or approved of by the inspector;

and it is not provided that such writing, information or thing is to be given or furnished to or that such consent or approval is to be given by the chief inspector then, unless the context otherwise indicates, it is implied that—

- (c) such writing, information or thing is to be given or furnished to; and
- (d) such consent or approval may be given by;

the inspector to whom the inspectorial division of the State in which the mine in question is situated is assigned or, if there be no such inspector, the inspector who, in practice, inspects that mine from time to time.

(2) In any proceeding for any offence against this Act the evidence—

- (a) of an inspector who, at the date of the inspector giving evidence, is stationed in the inspectorial division of Queensland in which the mine in relation to which the offence is alleged to have occurred is situated; or
- (b) if there be no such inspector, of the inspector who, in practice, inspects the mine from time to time;

that any writing, information or thing was not given to an inspector in accordance with this Act or that any act, matter or thing was not consented to or approved of in accordance with this Act shall be accepted as prima facie evidence of its content and in the absence of evidence in rebuttal shall be conclusive evidence thereof notwithstanding that such evidence may be in the nature of hearsay or other secondary evidence.

(3) Whenever in the exercise of a power conferred or at any time hereafter conferred by this Act the chief inspector or an inspector has made a decision with respect to any act matter or thing then, except when another mode of appeal is provided for by this Act, an appeal may be made by the owner, authorised representative or manager of the mine affected by the decision in question as follows—

- (a) from the decision of an inspector, to the chief inspector;
- (b) from the decision of the chief inspector (including a decision by the chief inspector upon appeal made under paragraph (a)) to the Minister, whose decision shall be final and conclusive.

Protection of Crown, Minister, inspectors and other officers

68A. Liability at law shall not attach to the Crown, the Minister or any inspector or other officer on account of anything done in good faith and without negligence for the purposes of this Act.

Summary procedure to recover penalties

69.(1) A proceeding taken under this Act for the recovery of a penalty may be taken in a summary way under the *Justices Act 1886*, upon the complaint of an inspector or any person authorised by the Minister.

(1A) However, when a penalty is sought for a contravention of, or noncompliance with, a special rule applicable to a mine the owner, authorised representative and manager of that mine may also institute proceedings for the recovery of that penalty in a summary way under that Act.

Appropriation of penalty

(2) When the justices hearing a complaint convict a defendant of an offence against this Act, and impose a penalty on the defendant, they may award the whole or any part of that penalty to any person or persons who may have suffered personal injury, or to the estate or estates of any person or persons who may have been killed, in consequence of the commission of such offence.

(2A) An award under subsection (2) shall not, in any way, prejudice any claim right or remedy which an injured person or deceased person or the latter's executor, administrator or dependant may have or have had against any person in respect of the act or omission constituting the offence in question, or to compensation payable under a contract of insurance with WorkCover Queensland or another insurer, and any such award shall not be taken into account in the assessment of the amount of damages or compensation payable to any of such persons as aforesaid in respect of that claim right or remedy.

(3) Subject to the provisions of subsection (2) all penalties, fees and other moneys recovered or received by a clerk of the court, warden, inspector or officer appointed under and for the purposes of this Act pursuant to this Act shall be paid to consolidated fund.

Facilitation of proof

69A. In a proceeding for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of the chief inspector, any inspector or other officer or his or her authority to do any act, take any proceeding or give any order or direction, in the absence of evidence to the contrary;
- (b) a signature purporting to be that of the chief inspector, any inspector or any other officer shall be taken to be the signature it purports to be in the absence of evidence to the contrary;
- (c) a writing purporting to be a copy of or an extract from any document or writing of any kind in the custody of or given, made, issued or granted under this Act by the board of examiners or any member thereof, a warden, an inspector or any other officer and endorsed with a certificate purporting to be under the hand of the Minister that the document is a true and correct copy of or extract from that other document or that writing, shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the original of which it purports to be a copy or extract and shall be admissible to the same extent as the original;
- (d) an allegation or averment in a complaint that any place is or that any act, matter or thing was done or omitted to be done within a specified district within the meaning of that term in the *Justices Act 1886* shall be evidence and in the absence of evidence to the contrary conclusive evidence of the matter so alleged or averred;
- (e) an allegation or averment in a complaint that a person has—
 - (i) failed to do that which the person is directed or required to do; or
 - (ii) done that which the person is forbidden to do;

by a person acting under the authority of this Act or by any term, condition or restriction to which any certificate, licence, authorisation, exemption, variation, modification or approval granted, allowed or issued pursuant to this Act is subject, shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matter so alleged or averred.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 March 1997. Future amendments of the Mines Regulation Act 1964 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 87 of 1994	1 March 1996

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Mines Regulation Act 1964 No. 4

date of assent 31 March 1964

commenced 1 June 1964 (proc pubd gaz 25 April 1964 p 1519)

as amended by—

Mines Regulation Act Amendment Act 1964 No. 35

date of assent 24 September 1964

commenced on date of assent

Mines Regulation Act Amendment Act 1968 No. 52

date of assent 23 December 1968

commenced on date of assent

Metric Conversion Act 1972 No. 31 s 6 sch 1

date of assent 21 December 1972

commenced 3 May 1990 (proc pubd gaz 5 May 1990 p 138)

Mines Regulation Act Amendment Act 1978 No. 54

date of assent 22 August 1978

commenced on date of assent

Mines Regulation Act Amendment Act 1979 No. 15

date of assent 15 May 1979

commenced on date of assent

Mines Regulation Act Amendment Act 1983 No. 39

date of assent 22 April 1983
 commenced on date of assent

Mines Regulation Act Amendment Act (No. 2) 1983 No. 50

date of assent 15 December 1983
 commenced on date of assent

Coal Mining Act and Another Act Amendment Act 1989 No. 36 pt 3

date of assent 28 April 1989
 commenced on date of assent

Mines Regulation Act Amendment Act 1989 No. 101

date of assent 25 October 1989
 commenced on date of assent

Anti-Discrimination Amendment Act 1994 No. 29 ss 1–3 sch

date of assent 28 June 1994
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 July 1994 (see s 2)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994
 commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 1996 (1996 SL No. 361)

WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2

date of assent 12 December 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 February 1997 (1996 SL No. 442)

5 List of annotations

Long title

amd 1983 No. 39 s 2

Short title

s 1 amd 1983 No. 39 s 3; R1 (see RA s 37)

Severability

s 2 om R1 (see RA s 39)

Arrangement of Act

s 3 om R1 (see RA s 36)

Crown to be bound

s 4A ins 1983 No. 39 s 4

Meaning of terms

- s 5** amd 1968 No. 52 s 2(c)
def **“inspector”** amd 1983 No. 39 s 5(a)
def **“mine”** sub 1968 No. 52 s 2(a); 1983 No. 39 s 5(b)
 amd 1989 No. 101 s 2(a)
def **“mineral”** sub 1968 No. 52 s 2(b)
def **“Mining”** and **“To Mine”** om 1983 No. 39 s 5(c)
def **“owner”** amd 1983 No. 39 s 5(d)
def **“serious bodily injury”** ins 1989 No. 101 s 2(b)

Application of Act

- s 6** amd 1983 No. 39 s 6; 1989 No. 101 s 3; 1994 No. 87 s 3 sch 2

Declaration of area or areas as a mine

- s 6A** ins 1983 No. 39 s 7

Appointments of officers

- s 8** amd 1996 No. 37 s 147 sch 2

Board of examiners

- s 9** amd 1978 No. 54 s 2; 1989 No. 36 s 11; 1994 No. 29 s 3 sch

Powers of inspectors

- s 14** amd 1983 No. 39 s 8

Manager to note record book entries

- s 17A** ins 1983 No. 39 s 9

District workers’ representatives

- s 18** amd 1964 No. 35 s 2; 1994 No. 29 s 3 sch

Remuneration of workers’ representatives

- s 21** amd 1996 No. 75 s 535 sch 2

Representatives taken to be employed by Crown or mine owner

- s 22** amd 1964 No. 35 s 3
 sub 1996 No. 75 s 535 sch 2

Order to take precautions and to make changes

- s 25** amd 1983 No. 39 s 10

Failure to comply with an inspector’s requisition

- s 26** amd 1983 No. 50 s 2; 1994 No. 87 s 3 sch 2

Appointment of manager

- s 27** sub 1983 No. 39 s 11

Qualification of manager

- s 30** amd 1983 No. 39 s 12

Offence to work a mine without a qualified manager

- s 31** amd 1983 No. 39 s 13; 1994 No. 87 s 3 sch 2

Enforcement of Act and rules

- s 34** amd 1989 No. 101 s 4

Appointment of persons to assist the manager

s 34A ins 1983 No. 39 s 14

Daily supervision

s 35 sub 1983 No. 39 s 15

Weekly inspection of a mine

s 36 sub 1983 No. 39 s 16

Notice of an accident

s 39 amd 1979 No. 15 s 2; 1989 No. 101 s 5

Scheme to facilitate supply of information on mining accidents and incidents

s 45A ins 1979 No. 15 s 3

Restrictions on employment of persons

prov hdg amd 1989 No. 36 s 12(a)

s 46 amd 1989 No. 36 s 12(b)–(e)

Winding engine to be in the charge of a licensed person

s 47 amd 1972 No. 31 s 6 sch 1; 1989 No. 101 s 6

Underground workings of a mine to be surveyed

s 51 amd 1972 No. 31 s 6 sch 1

Applications to warden to enter a mine

s 53 amd 1983 No. 39 s 17; 1994 No. 87 s 3 sch 2

Power to make regulations

s 54 amd 1968 No. 52 s 3; 1979 No. 15 s 4; 1983 No. 39 s 18; 1989 No. 101 s 7

Variation of regulations by inspector

s 54A ins 1979 No. 15 s 5

Regulations may adopt standards etc.

s 54B ins 1979 No. 15 s 5

Notice of alteration of regulations

s 55 amd 1989 No. 101 s 8

Publication of proclamations and orders in council

s 56 sub 1989 No. 101 s 9

Special rules

s 57 amd 1983 No. 39 s 19; 1994 No. 87 s 3 sch 2

Regulations and special rules to be exhibited

s 59 amd 1983 No. 50 s 3; 1994 No. 87 s 3 sch 2

Returns

s 63 sub 1983 No. 50 s 4

Notification before drilling

s 64 amd 1972 No. 31 s 6 sch 1

Offences

s 65 amd 1983 No. 39 s 20; 1994 No. 87 s 3 sch 2

Defence of impracticability

s 67 amd 1983 No. 39 s 21

Protection of Crown, Minister, inspectors and other officers

s 68A ins 1983 No. 39 s 22

Summary procedure to recover penalties

s 69 amd 1996 No. 75 s 535 sch 2

Facilitation of proof

s 69A ins 1983 No. 39 s 23

Service of notices etc.

s 70 om R1 (see RA s 39)

Saving of “The Inspection of Machinery Acts, 1951 to 1963”

s 71 om 1989 No. 101 s 10