

Queensland



ANNO TERTIO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 4 of 1964

**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**

[ASSENTED TO 31ST MARCH, 1964]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. (1) **Short title.** This Act may be cited as "*The Mines Regulation Act of 1964.*"

(2) **Commencement of Act.** This Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

(3) **Construction of this Act.** This Act shall be read as one with "*The Mining Acts, 1898 to 1955*" (hereinafter referred to as the Principal Act).

2. **Severability.** This Act including every Proclamation, Order in Council, regulation, and rule hereunder shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment hereof or provision of any Proclamation, Order in Council, regulation or rule hereunder would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

3. Arrangement of the Act. This Act is arranged as follows:—

- PART I—PRELIMINARY;
- PART II—ADMINISTRATION;
- PART III—BOARD OF EXAMINERS;
- PART IV—PROVISIONS RELATING TO ALL MINES;
- PART V—REGULATIONS AND RULES;
- PART VI—MISCELLANEOUS PROVISIONS.

4. (1) **Repeal.** Subject to the provisions of subsections (2) and (3) of this section, “*The Mines Regulation Acts, 1910 to 1958*” (hereinafter referred to as the “repealed Acts”) are hereby repealed.

(2) **Savings.** Without limiting the operation of “*The Acts Interpretation Acts, 1954 to 1962*”—

(a) unless otherwise provided by this Act, all persons who immediately prior to the commencement of this Act held office under the repealed Acts shall be deemed to have been appointed to their respective offices under and for the purposes of this Act and, subject to this Act, shall continue to hold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—

(i) every first-class certificate, second-class certificate, deputy certificate, mine electrician certificate, mine surveyor certificate and winding license granted under the repealed Acts, 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 license 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 Acts, 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 license, certificate as mine electrician and certificate as mine surveyor granted under “*The Coal Mining Acts, 1925 to 1952,*” 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 license, a mine electrician certificate and a mine surveyor certificate granted under this Act; and

(iv) every certificate of service granted under section 57C of “*The Coal Mining Acts, 1925 to 1952*” and every certificate of service granted under section 57F of those Acts 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 license of a kind referred to in paragraph (b) of this subsection which, at the commencement of this Act, is suspended shall, for the purposes of paragraph (b) of this subsection, 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 of this Act;
- (d) when in any document reference is made to the repealed Acts, 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 Acts shall be deemed to have been appointed to, or to hold, that position under this Act without further appointment unless his appointment to, or his holding, that position is inconsistent with any provision of this Act.

(3) Sewers and Quarries to be subject to the repealed Acts until a date proclaimed. (a) Until a date to be proclaimed by the Governor in Council and notwithstanding the repeal of the repealed Acts—

- (i) 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 Acts apply, in whole or in part, immediately prior to the date of the coming into operation of this Act, or to which the repealed Acts 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 those Acts apply or are made to apply thereto;
- (ii) While a sewer or quarry remains subject to any provision of the repealed Acts it shall not be subject to the provisions of this Act other than this subsection;
- (iii) the Governor in Council may, by Order in Council—
 - (1) prescribe that all or any of the provisions of the repealed Acts shall apply to any sewer or quarry, or class thereof; and
 - (2) from time to time, vary or modify any provision of the repealed Acts in its application to a sewer or quarry, or class thereof, and, in the exercise of the power conferred by paragraph (1) of this subparagraph may so vary or modify such provision in the Order in Council whereby that power is exercised or in a subsequent Order in Council.

(b) On and from a date proclaimed pursuant to this subsection the repealed Acts shall cease to apply to every sewer or quarry, or class thereof, to which they 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 six of this Act.

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

(d) In subparagraphs (a), (b) and (c) 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.

5. Meaning of terms. In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

- "Authorized representative"—The person having as the attorney or representative of the owner control of the manager;
- "Approved"—Approved in writing by an inspector;
- "Board of Examiners"—The Board of Examiners constituted under this Act;
- "Certificate"—A certificate granted and in force under this Act;
- "Chief Inspector"—Includes a person performing for the time being the duties of the office of Chief Inspector of Mines;
- "Excavation"—Any cavity in the ground. The term includes trenches, pits, sewers under construction, shafts, winzes, rises, open-cuts, tunnels, adits, drives and all underground passages and workings;
- "Explosives"—Explosives within the meaning of "*The Explosives Act, 1952 to 1963*";
- "Holder"—When used in relation to a certificate or license granted under this Act, the person named in such certificate or license as the holder thereof;
- "Inspector"—An inspector of mines appointed under this Act and an inspector of mines appointed under "*The Coal Mining Act, 1925 to 1952*." The term includes the Chief Inspector of Mines, Assistant Chief Inspector of Mines, an electrical inspector and a mechanical inspector appointed under this Act;
- "Machinery"—Every kind of mechanical appliance and every part thereof;
- "Manager"—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"—A place where any operation for the purpose of obtaining metal or mineral 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;
- "Mineral"—Does not include coal, natural gas and mineral oil in the free state;
- "Mining" and "To mine"—To disturb, remove, cart, carry, wash, sift, crush, concentrate, smelt, refine or otherwise deal with any mineral, rock, stone, quartz, clay, sand or soil by any mode or method whatever for the purpose of obtaining metal or mineral therefrom;

- “Minister”—The Minister for Mines and Main Roads or other Minister of the Crown for the time being charged with the administration of this Act;
- “Open-cut”—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”—A person or corporation being the proprietor or lessee or occupier of a mine or any part thereof; the term 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 which is not being worked by him or it, or, who, being the proprietor or lessee of land, is not interested in the mining of minerals therein;
- “Plan”—An original plan or section and a correct copy or tracing thereof;
- “Regulations”—The regulations and forms for the time being in force under this Act;
- “Rock”—Any portion of the earth’s crust whether consolidated or not;
- “Shaft”—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 connection with the working of a mine. The term includes a winze which is or could be so used;
- “Trainee winding driver”—A person operating or driving a winding engine under the personal supervision of the holder of a winding license;
- “Underground”—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”—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”—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:
The term does not include any dragline, loader, scraper, or shovel or any mechanical appliance declared by the Governor in Council to be excluded therefrom;
- “Winze”—A vertical or inclined way or opening downwards from an underground working in a mine.

Save as hereinbefore provided the terms used have the meanings respectively assigned to them by the Principal Act.

6. Application of Act. (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.

(2) If, at any time, it is made to appear to the Governor in Council that there is sufficient reason that the provisions of this Act, or any of them, should apply to any quarry or other excavation worked for the purpose of obtaining rock, earth, clay, sand, soil or gravel, or to any other excavation, the Governor in Council may, by Order in Council, prescribe that the provisions of this Act, or such provisions as may be specified in the said Order in Council, shall apply to such quarry or excavation or to quarries or excavations included in such class of quarry or excavation as is specified in the Order in Council and, thereupon, every quarry or excavation or class of quarry or excavation specified in the Order in Council shall for so long as the Order in Council remains in force and subject to the provisions of subsection (3) of this section be deemed to be a mine or class of 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, as the case may be, such of them as are specified in the Order in Council.

(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 (whether varied or modified under subsection (4) of this section, or not) 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, authorized 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.

(4) The Governor in Council may, by Order in Council, from time to time vary or modify any provision of this Act in its application to a particular mine or to mines included in any class of mine or to a particular quarry or excavation or to quarries or excavations in any class of quarry or excavation.

In relation to a quarry or excavation or to quarries or excavations included in any class of quarry or excavation, such a variation or modification may be made in the Order in Council made under subsection (2) of this section or in a separate Order in Council.

When the Governor in Council has so varied or modified any provision of this Act the provision as so varied or modified shall, subject to the provisions of subsection (3) of this section, thereafter apply to the particular mine or to mines included in the class of mine or to the particular quarry or excavation or to quarries or excavations included in the class of quarry or excavation specified in the Order in Council for so long as the Order in Council remains in force.

(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 Acts, 1925 to 1952" 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 Acts, 1925 to 1952" and thereupon, for so long as such Order in Council remains in force, such appliance shall be so deemed.

PART II—ADMINISTRATION

7. General Administration of Act. 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.

8. Appointments of officers. (1) The Governor in Council may from time to time appoint for the purposes of this Act a Chief Inspector of Mines, an Assistant Chief Inspector of Mines and such inspectors, electrical inspectors, mechanical inspectors and other officers as he deems necessary for the effectual administration of this Act.

Every such appointment shall be made and the appointee shall hold his office under, subject to and in accordance with "The Public Service Acts, 1922 to 1963."

Upon notification in the *Gazette* of any such appointment judicial notice shall be taken of the notification and of the appointment thereby notified.

(2) Every person appointed by the Governor in Council under and for the purposes of the repealed Acts to an office which he holds at the commencement of this Act shall continue to hold that office for the purposes of this Act and where such office has been held, prior to the commencement of this Act, under, subject to and in accordance with "The Public Service Acts, 1922 to 1963," the same shall continue to be held under, subject to and in accordance with those Acts.

Judicial notice shall be taken of the notification in the *Gazette* of every such appointment made for the purposes of the repealed Acts and of the appointment thereby notified.

(3) 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 he 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 he 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 III—BOARD OF EXAMINERS

9. Board of Examiners. (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.

The term of appointment of any appointed member of the Board of Examiners shall be five years but, upon the expiration by effluxion of time of each term of his appointment such member shall be eligible for re-appointment for a further term of five years: Provided that no person who has attained the age of sixty-five years shall be eligible for appointment to the Board and any appointed member of the Board who attains the age of sixty-five years shall forthwith resign from his membership of the Board.

(2) The Board of Examiners shall consist of the Chief Inspector who, by virtue of his office, shall be a member of the Board and Chairman thereof without further appointment, and at least four 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 two shall be inspectors for the purposes of this Act or "*The Coal Mining Acts, 1925 to 1952.*"

(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 licenses:—

(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 license;

(ix) Such other certificate, license or authorization as the Minister may, from time to time, approve;

(c) may grant a certificate, license, or authorization 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, license or authorization already granted by the Board;

(d) may cancel or suspend in accordance with this Act any certificate, license or authorization granted by the Board;

(e) may lift any cancellation or suspension of a certificate, license or authorization imposed under this Act.

(4) The Board of Examiners may act as one or more committees: Provided that not less than three members of the Board, of whom one shall be the Chief Inspector, 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 Chairman of the Board of Examiners shall be the executive member of the Board: Provided that without thereby derogating from his own executive powers, as such Chairman, under this Act the Chairman may delegate all or any of his powers to such person or persons as he may from time to time deem fit.

10. Continuation of existing members. (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 Acts 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.

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.

11. General provisions with respect to certificates. (1) Each certificate shall set out the class of mine in respect of which it has been granted and shall entitle its holder to his 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 foreman.

(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 fifty-one of this Act; the holder thereof shall be designated therein as a mine surveyor.

(9) In this section the term "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.

12. General provisions with respect to licenses. (1) Each winding license shall set out the class or classes of winding engine in respect of which it has been granted and shall entitle its holder to his qualification under that license 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 license shall entitle the holder thereof to operate a winding engine in on or about a mine.

13. Offences with respect to certificates and licenses. (1) A person who becomes the holder, or attempts to become the holder, of a certificate, license or authorization under this Act by fraud commits an offence against this Act.

(2) (a) The Board of Examiners may cancel a certificate, license, or authorization 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.

(b) When the Board of Examiners has cancelled a certificate, license or authorization in accordance with paragraph (a) of this subsection it shall by written notice to the holder of such certificate, license or authorization require him to return such certificate, license or authorization to the Chairman of the Board of Examiners and such holder shall forthwith return such certificate, license or authorization to the said Chairman.

(3) Any person—

(a) who uses a certificate, license or authorization 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 him to return his certificate, license or authorization to the Chairman of such Board, who fails to forthwith return such certificate, license or authorization to the said Chairman,

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

PART IV—PROVISIONS RELATING TO ALL MINES

14. Powers of inspectors. An inspector may, from time to time, and as often as is necessary in his opinion—

- (a) enter, inspect, examine and leave 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;
- (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;
 - (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 well-being of persons employed in, on or about a mine;
- (d) initiate and conduct inquiries into accidents which have occurred in, on or about a mine;
- (e) exercise in respect of a mine any or all of his powers which may, in his opinion, be reasonably required to enable him to properly perform and discharge his 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 him under this Act.

15. Inspections of mines for official purposes. (1) A warden, Government geologist or assistant Government geologist, with such assistants as he 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 authorize any officer of the Department of Mines, an authorized surveyor or a mine surveyor to enter, inspect and survey a mine.

Every person so authorized shall have such powers of an inspector as the Minister may specify in the authorization granted to such person.

If so empowered a person so authorized 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.

16. Warden may authorize an examination where no inspector is resident. 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 his jurisdiction is unsafe he may authorize two competent persons to make an examination of such working place, and upon the report of such persons may order the owner, authorized 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.

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

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

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.

17. Record Book. (1) Every manager shall cause to be kept at the mine of which he 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.

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 him, 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 him;
- (b) the nature of his inspection;
- (c) every particular which he 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 he 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 authorized 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 authorized in writing by the Minister.

18. District Workers' Representatives. (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.

No person's name shall be included in such a panel unless he has had at least five years' practical experience in mining.

(2) (a) From the panels submitted to him the Minister may appoint one or more suitable persons to be District Workers' Representatives.

(b) No person shall be appointed a District Workers' Representative whose age at the date at which the appointment would be made exceeds sixty-five years, and no District Workers' Representative who has attained the age of sixty-five years shall continue to be such a representative.

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

(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 three years:

Provided that 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 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:

Provided further that, subject to the provisions of this section, upon the expiration by effluxion of time of each term of his appointment a District Workers' Representative shall be eligible for re-appointment as such by the Minister.

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

The provisions of this subsection 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 four 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 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 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 him, or of any workings in such place, is such as to endanger life, he 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 him 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 his findings as a result of his 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 has found a condition of danger or has reason to suspect the existence of danger, shall forthwith notify the manager of the mine concerned.

19. Appointment of Local Workers' Representatives. (1) If in respect of a mine—

(a) a District Workers' Representative does not in practice make at least two 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, two 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.

Such notice shall be sufficient notification to the owner, authorized 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 subsection (3) of this section 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.

20. Facilitating the discharge of their duties by Workers' Representatives. (1) The owner, authorized 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 or them under this Act shall afford every facility to such representative or, as the case may be, representatives to enable him or them to exercise such powers or perform such functions or duties.

(2) If the owner, authorized representative or manager of a mine thinks fit, the manager or other person selected by him, may accompany the District Workers' Representative or Local Workers' Representatives on an inspection of that mine.

21. Remuneration of Workers' Representatives. The remuneration of a District Workers' Representative or, as the case may be, a Local Workers' Representative, during the time taken by him in making an inspection, in entering a finding in the Record Book and in taking such further steps as may be required of him under this Act, may be paid out of Consolidated Revenue to such extent and on such conditions as the Minister may from time to time approve.

The Consolidated Revenue is hereby appropriated for this purpose.

22. Representatives to be workers within "The Workers' Compensation Acts, 1916 to 1962." (1) While making an inspection and taking such further steps in respect thereof as may be required by this Act a District Workers' Representative or, as the case may be, a Local Workers' Representative shall be deemed to be a worker within the meaning of "*The Workers' Compensation Acts, 1916 to 1962*," employed by the owner of the mine concerned.

(2) A representative referred to in subsection (1) of this section shall be deemed to be taking a further step in respect of an inspection while he is—

- (a) travelling from his usual place of residence to the mine for the purpose of making his inspection;
- (b) travelling between the mine and his usual place of residence during his inspection;
- (c) travelling from the mine to his usual place of residence upon completion of his inspection.

23. Termination of the appointment of Local Workers' Representatives. (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) of this section, 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 his 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) of this section the Minister shall satisfy himself 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 Acts, 1954 to 1962.*"

24. Obstruction of inspections an offence. (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 or their powers or functions or duties under this Act commits an offence against this Act.

(2) Any owner, authorized 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.

25. Order to take precautions and to make changes. (1) When an inspector finds in, on or about a mine, or any part thereof, that the state and condition thereof or any thing or practice used in or in connection with that mine, or part, is dangerous or defective to any extent whatever, or that the presence or absence of any thing or practice threatens or tends to cause bodily injury to any person or damage to property, then if the case is not sufficiently provided for by this Act or by a special rule applicable to the mine concerned, he may order such precautions to be taken and such changes to be made as will, in his opinion, temporarily ensure safety in the mine.

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

A manager who fails to forthwith obey such an order shall be liable to have his certificate under this Act, if any, suspended or cancelled by the Board of Examiners: Provided that a manager whose certificate has been suspended or cancelled pursuant to this subsection may appeal from the decision of the Board to the Minister who may confirm, vary or rescind such decision as he thinks just and the Minister's decision thereon shall be final.

(2) An inspector who makes an order referred to in subsection (1) of this section 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, authorized representative or manager of the mine concerned, specify the nature of the danger or defect found by him and his reason for holding the circumstances to be a danger or, as the case may be, a defect and shall require that the owner, authorized representative or manager eliminate such danger or defect.

An inspector shall give a copy of his report made under this subsection and a copy of his requisition, if any, issued thereon to the warden.

(3) (a) **Time and manner of objecting to inspector's requisition.** If the owner, authorized 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) of this section, desires to object to complying with such requisition he shall cause to be delivered to the warden and to the inspector who issued such requisition, within ten days of the date of such requisition, his objection in writing to complying with such requisition, setting out with particularity the grounds of his objection.

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.

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

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.

Upon hearing an objection to complying with such a requisition the Warden's Court may, by its decision, confirm, vary or rescind the requisition.

(b) When an objection to complying with a requisition issued by an inspector under subsection (2) of this section 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 the said subsection 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 said requisition, shall be deemed to be the requisition issued by the inspector under the said subsection.

(4) In respect of each requisition issued under subsection (2) of this section there shall be a date (hereinafter in this Act called the "date of operation") on and from which such requisition shall operate. 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, authorized 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) of this section 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, authorized 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) of this section 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 the next succeeding paragraph of this subsection;
- (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.

26. Failure to comply with an inspector's requisition. (1) An owner, authorized representative or manager of a mine, in respect of which or of any part of which a requisition has been issued under section twenty-five of this Act, who fails to comply with such requisition within fourteen days from the date of operation of such requisition: commits a continuing offence against this Act and is liable to a penalty not exceeding fifty pounds and, in addition, to a penalty not exceeding five pounds for each day beyond such fourteenth day during which such non-compliance continues.

(2) A certificated manager who has been convicted of an offence against this section is liable to have his certificate cancelled or suspended by the Board of Examiners on the ground of misconduct in addition to any other penalty to which he may be rendered liable by his offence: Provided that he shall not be liable to such additional penalty when the court by which he was convicted has imposed no penalty on him.

(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 twenty-five of this Act 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 him but shall not impose a penalty on him.

(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 twenty-five of this Act 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.

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

(2) The authorized representative of a mine, or if there be no authorized representative, the owner, may at any time appoint a separate manager or any number of separate managers to be manager, or managers, of machinery, plant or works used for the treatment of ore, generation of power, or other purpose connected with the mine or of any part or parts thereof and, if notified by the Minister that in his opinion a separate manager, or a number of separate managers should be so appointed, such authorized 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, within fourteen days of the appointment, give written notice of such appointment to the warden and to the inspector. He shall notify the warden and the inspector in like manner of any change of manager or separate manager.

Such notice shall include the name and address of the appointee and the date of his appointment and shall clearly indicate and, if necessary, delineate the mine, machinery, plant or work or the part or parts thereof in respect of which the manager or separate manager, as the case may be, is appointed.

(4) 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 machinery, plant or works in, on or about that mine as the case may be.

(5) 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 machinery, plant or works in, on and about that mine, as the case may be and stating that no further appointment of a manager or separate manager has been notified to such warden or inspector, as the case may be, in relation to such mine or in relation to such machinery, plant or works, as the case may be, shall be accepted by all courts and tribunals as *prima facie* evidence in all proceedings of its contents and 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 machinery, plant or works in, on or about such mine, or of any part or parts thereof, as the case may be.

(6) 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.

28. Manager to be in charge of a mine being worked. 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: Provided that if, at any time, a mine is being worked without a manager, the owner and authorized 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.

29. Owner or authorized representative not to interfere with manager. The owner or authorized representative, not being a manager, or any person in a position of authority and control over the manager, shall not exercise his authority and control in any way to obstruct the manager in observing or enforcing the observance of this Act.

30. Qualification of manager. (1) (a) Subject to the provisions of subparagraphs (b) and (c) of this subsection, the provisions of this section apply only to a mine in which more than twenty men are ordinarily employed underground or, in the case of an open-cut, where more than forty men are ordinarily employed.

(b) The Minister may, by order under his 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 subsection (2) of section six

of this Act 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.

(c) The Minister may, by order under his 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: Provided that 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) of this section, 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 subparagraph (b) of subsection (1) of this section, 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;
- (c) in the case of a mine in respect of which the Minister has specified the minimum qualification required of a manager under the proviso to subparagraph (c) of subsection (1) of this section, possess at the least, such qualification.

(3) **Acting Manager.** (a) If in respect of a mine—

- (i) there is no certificated manager available for the time being due to reasonable cause; or
- (ii) the manager is incapacitated from performing his duties; or
- (iii) the manager is about to be absent from the mine for a longer period than three days,

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

- (1) 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
- (2) 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
- (3) in any case where there is no person available who possesses 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.

(b) The person making such appointment shall forthwith notify the warden and the inspector in writing of the appointment and in such notification shall state the following particulars:—

- (i) the name and address of the person appointed;
- (ii) the period of the appointment;
- (iii) the reasons for the appointment;

- (iv) the qualifications and mining experience of the person appointed;
- (v) the number of men employed underground at the mine concerned.

(4) (a) When the period of appointment of an acting manager shown in the notification referred to in subsection (3) of this section exceeds one week, the inspector shall notify the Chief Inspector, who if he 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, authorized representative or manager of the mine concerned.

(b) 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.

(c) The Chief Inspector may require by notice to the owner, authorized 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, authorized 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 two weeks without the consent of the inspector first had and obtained nor shall any such appointment be for a longer period than one 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 he 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.

31. Offence to work a mine without a qualified manager. (1) If any mine is worked for more than fourteen days without a manager who possesses, at the least, the qualification required by section thirty of this Act, then—

- (a) the owner and authorized 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 fifty pounds and, in addition, to a penalty not exceeding ten pounds for each day in excess of fourteen days during which the mine is so worked.

(2) A copy of the *Gazette* in which an order made by the Minister under section thirty of this Act 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.

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

33. Notification of operations in a mine and abandonment thereof. Within one month after mining operations in, on or about a mine are commenced, discontinued, recommenced or abandoned, the owner, authorized representative or manager shall give notice of the fact to the warden and the inspector.

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.

34. Enforcement of Act and rules. (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 him in a position of authority in the mine is conversant with such provisions.

(2) The manager shall ensure that every person subordinate to him in a position of authority in the mine is competent in the performance of his 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 his knowledge, the manager shall report the same in writing to the warden or inspector.

35. Daily supervision. (1) The manager or some person assisting him in that behalf shall exercise daily personal supervision of all working parts in a mine.

The manager or other competent person appointed pursuant to this section and assisting him in that behalf shall, at least once in each week enter in the Record Book and initial an entry certifying that such supervision has been exercised.

(2) (a) The owner, authorized representative or manager of a mine may, at any time, appoint a competent person or competent persons, to assist the manager in the exercise of daily personal supervision of all working parts of a mine.

(b) If the Minister is of the opinion that, because of the extent of the workings of a mine or for any other reason, the daily supervision required by this section cannot be adequately exercised by the manager alone, the Minister may in writing direct that one or more competent persons should be appointed to assist the manager in that behalf.

As soon as practicable after the receipt of such a notification the owner or authorized representative or manager shall comply with the direction.

(3) Within fourteen days of the appointment of a person under this section, or of any change in such appointment, the owner, authorized representative or manager of the mine shall give written notification of such appointment, or change therein, as the case may be, to the warden and the inspector who shall each record such appointment or change.

Such notification shall include the name and address of the appointee or changed appointee, as the case may be, and his qualifications and mining experience.

(4) (a) If the person who is at any time appointed under this section to assist the manager in the supervision of the underground workings of a mine, or of the workings of an open-cut is not the holder of a first-class mine manager's certificate of competency or a second-class mine manager's certificate of competency the inspector shall notify the Chief Inspector who, if he 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, authorized representative or manager of the mine concerned.

(b) If the Chief Inspector cancels any such appointment the person who was appointed to assist the manager of the mine concerned shall forthwith cease to act in that capacity.

(c) The Chief Inspector may require by notice to the owner, authorized 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, authorized 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.

(d) A person appointed under this section to assist the manager in the supervision of surface workings of a mine shall be an approved competent person.

(5) Every person appointed under this section 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.

36. Weekly inspection of a mine. (1) The manager, or a competent person appointed under section thirty-five of this Act, 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 certifying that such inspection has been made and the findings of the manager or competent person consequent upon such inspection and certifying the precautions, repairs or alterations which, in his opinion, are required to ensure greater safety to the miners and shall initial such entry.

When such inspection and entry are made by a person other than the manager, the manager shall peruse such entry and shall initial such entry.

(2) In any mine in respect of which the Chief Inspector has so approved in writing, when a weekly inspection referred to in the preceding subsection is made by a competent person as aforesaid other than the manager, such person, instead of making the entry in the Record Book required by the preceding subsection, may make a full report on his inspection to the manager particularizing the matters required to be certified in such entry.

The manager or any competent person appointed under section thirty-five of this Act shall thereupon make an entry in the Record Book required by the preceding subsection which entry shall be based upon the report so made by the person who made the inspection.

If such entry be made by a person other than the manager, the manager shall peruse such entry and shall initial such entry.

37. Manager of a mine worked by contractor or tributor. (1) When a mine or part of a mine is subject to an agreement between the owner, authorized representative or manager thereof and a contractor or tributor 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 authorized representative thereof shall have the supervision and control of all work to be performed by such contractor or tributor in, on or about the mine or part, as the case may be, and for this purpose the manager of the mine appointed by the owner or authorized representative thereof shall be deemed to be the manager appointed by such contractor or tributor in respect of the mine or part thereof to be worked by such contractor or tributor unless such contractor or tributor, with the consent in writing of the owner, authorized representative or manager with whom he 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.

The contractor or tributor who appoints a manager shall notify such appointment and any change in that appointment in accordance with section twenty-seven of this Act.

(2) When the contractor or tributor appoints a manager of the mine or part wherein the contractor or tributor 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 authorized representative of such mine and such lastmentioned manager shall be relieved of his 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 tributor and such contractor or tributor appoints his own manager of that part the owner, authorized representative or manager of the mine and such contractor or tributor 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 tributor 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 authorized representative.

(4) When a mine, or part of a mine, is being worked, or is to be worked, by a contractor or tributor such contractor or tributor, 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 authorized representative of a mine and, to that intent, those provisions shall be construed as though the terms "contractor or tributor" appeared therein instead of the term "owner or authorized representative".

38. Accident to be evidence of negligence. The occurrence of an accident in, on or about a mine shall be *prima facie* evidence of negligence on the part of the manager.

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.

39. (1) Notice of an accident. 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 shall give notice of the accident to—

- (a) the inspector, or, if he is not then available, to the warden; and
- (b) a District Workers' Representative.

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

A District Workers' Representative or, if he is not then available, two Local Workers' Representatives may also examine the place where the accident occurred.

(3) Within one 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 fourteenth 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 him 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.

(5) Within twenty-four hours after the occurrence of—

- (a) any breakage of any essential 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 extensive 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 men 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 gas or of an outburst of gas in any part of a mine;
- (g) any accidental ignition or detonation of explosives,

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 he 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 he may ask for, and shall record particulars of such occurrence in the Record Book.

40. Offences in relation to accidents. (1) A manager who fails to give a notice required to be given by him under section thirty-nine of this Act 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.

41. Employees to inspect equipment and report accidents. (1) Every person employed in, on or about a mine—

- (a) shall, before commencing his work, and during the course of his work, take reasonable care to ascertain that all machinery and equipment to be used, or being used, by him and the place in which he 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 subparagraphs (a), (c) or (d) of subsection (1) of this section or, in the case of subparagraph (b) thereof, knowingly contravenes the provisions of that subparagraph, commits an offence against this Act.

42. Inquiries into serious accidents. (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 four persons having practical knowledge and skill in the mining industry (hereinafter in this Act called "reviewers") selected by the warden, and having no connection with the mine where the accident occurred.

Where there is an association representative of mine employees, the secretary or other person authorized 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 one 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 four days before such inquiry is held, give notice of the time and place of holding the inquiry to the owner, authorized 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.

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, authorized representative or manager and to the inspector and to such person resident in Queensland as the injured person may name.

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 his counsel, solicitor, or agent.

(3) (a) 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 his report as to the nature and cause of the accident.

(b) The warden shall announce his finding before closing the inquiry.

(c) 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 his own report, and shall send copies of the same to the Minister.

(4) This section and section forty-three of this Act apply subject to section 4A of "*The Commissions of Inquiry Acts 1950 to 1954.*"

43. Inquiry in other cases. (1) A warden, inspector or District Workers' Representative may request the Minister, in writing, that an inquiry be held under section forty-two of this Act into any accident which has occurred in, on or about a mine.

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

When the Minister so orders, an inquiry into such accident shall be held in the manner provided by section forty-two of this Act.

44. Powers of warden upon inquiry. (1) A warden holding an inquiry under section forty-two of this Act 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 forty-two of this Act may by writing under his 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 his custody or under his 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.

45. Action against holder of a certificate. (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, license or authorization under this Act, or by reason of the negligence of such a holder, the warden may suspend the certificate, license or authorization 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, license or authorization has been suspended to show cause to the Board why the certificate, license or authorization 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, license or authorization has been suspended shall be deemed not to be the holder of a certificate, license or authorization granted under this Act.

46. Employment of young males and females. (1) No person under the age of twenty-one years shall be appointed or shall act as mine manager.

(2) No male under the age of sixteen years shall be employed underground in a mine except with the approval of the Chief Inspector.

(3) No female shall be employed underground in a mine except with the approval of the Chief Inspector.

(4) No person under the age of eighteen 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 males under the age of eighteen years employed underground in the mine and any change in the nature of such employment of any of such males.

47. (1) Winding engine to be in the charge of a licensed person. 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.

(2) **Winding permit.** (a) Any inspector may issue a winding permit, subject to such conditions as he 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 forty-eight of this Act 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.

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

(b) 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.

A person so called upon shall forthwith surrender such permit to the inspector.

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 he has surrendered the permit to the inspector.

(c) The holder of a winding permit may operate or be in charge of a winding engine of a size not exceeding thirty brake horsepower and of a type, and in accordance with the conditions, specified in the permit.

(3) **Winding engines operated underground not exceeding 10 brake horsepower.** A competent person not being the holder of a winding license 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;
- (b) is of a size not exceeding ten brake horsepower;
- (c) has been installed in such manner as an inspector has approved;
- (d) is operated under such conditions as an inspector has approved; and
- (e) is not being used to raise or lower a man.

(4) **Trainee winding driver.** 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.

(5) **Offence to permit an unlicensed person to operate a winding engine or for an unlicensed person to operate such an engine.** 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) of this section; 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) of this section.

(6) **Application for exemption.** (i) The owner, authorized 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.

(ii) 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.

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

(iv) 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.

The Minister may, at any time, revoke an exemption granted by him under this paragraph.

(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, authorized representative or manager of a mine shall—

(a) if requested by the inspector or other person authorized 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 authorized in writing by the Minister to examine and to make a copy of the plans produced under paragraph (a) of this subsection;

(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, authorized representative or manager of a mine shall, once in every year, send to the inspector a copy of all plans kept under this section.

Such copies shall bear or be accompanied by a certificate of an authorized surveyor, a certificated mine surveyor or other competent person being the holder of an authorization 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.

(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 he 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, authorized 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.

Such costs and expenses may be recovered as a debt due to the Crown.

(9) The owner, authorized 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.

It shall be a defence to an offence defined in paragraph (d) of this subsection that the owner, authorized 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 authorization granted by the Board of Examiners, makes a certificate prescribed by this section,

commits an offence against this Act.

52. Plans not to be shown to persons other than owner, authorized representative or manager. 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, authorized 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, authorized representative or manager.

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

53. (1) Applications to warden to enter a mine. 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 Authority, within the meaning of "*The Local Government Acts, 1936 to 1963*," having control of a road adjacent to a mine,

supported by such evidence as the warden think proper, the warden may, by his order, authorize any such person or Local Authority, or his or its surveyor, or both, to enter on the mine to which their mine, land or road is adjacent to ascertain—

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

- (ii) whether there is a flow of water from that mine or an accumulation of water therein or thereon; or
 - (iii) whether any surface rights are being interfered with or endangered; or
 - (iv) 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 authorized representative of the mine on which entry is sought to be made and that such owner or authorized 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 authorized 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 authorized representative of such mine, in consequence of an entry made under such order.

(3) Every person so authorized may thereupon together with his 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 he deems necessary, and, for those purposes, avail himself 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 authorized and to his employees.

(4) (a) 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—

- (i) 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
- (ii) 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 authorized 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 authorized representative of such mine, in consequence of such inspection.

(b) Subject to the payment thereof for the purposes hereinbefore in this subsection 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 one, in such proportions as those persons may, in writing, direct.

(c) Nothing in this section shall prejudice the right of the owner or authorized 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 him therefor, compensation for loss, damage or expense caused to his mine or the machinery, apparatus or structures in, on or about such mine or to himself in consequence of such entry.

(5) **Warden may order inspection of plans.** 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.

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 his behalf, the plans or portion thereof, the subject of the warden's order. When the warden has made such an order, he shall not order an entry upon the mine concerned unless he is satisfied that an inspection of the plans, or portion thereof, has proved insufficient for the purpose of such application.

(6) **Offences.** 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 authorized 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 two hundred and fifty pounds.

PART V—REGULATIONS AND RULES

54. (1) **Power to make regulations.** Subject to the provisions of section fifty-five of this Act 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:—

- (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, authorized representatives and managers in, on and about mines in respect of matters which might affect the safety or health of mine employees;
- (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;
- (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;
- (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, licenses and authorizations granted or to be granted by the Board of Examiners;
- (l) prescribing forms to be used for any purpose prescribed or authorized 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 preservation and protection of mines which are disused for mining or abandoned and every part thereof.

(2) **Application of regulations.** 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 subsection (3) of section six of this Act, 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.

55. Notice of alterations to regulations. (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 he may think sufficient, and in such other manner as he may think desirable, stating the intention of the Governor in Council to make such regulation and the text of the same.

A copy of the *Gazette* containing such notice shall be exhibited at each warden's office in Queensland.

(2) If, within one 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.

For the purpose of this section the date of publication of a notice shall be the date or, where there has been more than one 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) The provisions of this section do not apply to regulations made on the passing of this Act which take effect on and from the date of the coming into operation of this Act.

56. Publication of regulations. (1) Every Proclamation, Order in Council or regulation made under this Act shall—

- (a) be published in the *Gazette*;
- (b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication unless a later date is specified in that Proclamation, Order in Council or regulation for its commencement when, in such event, it shall take effect from that later date; and
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session and, if not, then within fourteen sitting days after the commencement of the next session of the Legislative Assembly.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after a Proclamation, Order in Council or regulation has been laid before it disallowing such Proclamation, Order in Council or regulation or part thereof, that Proclamation, Order in Council or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done or omitted to be done in the meantime or to the making of a further Proclamation, Order in Council or regulation as the case may be.

(3) No regulation shall be deemed invalid, or to be of no force and effect, by reason only of the fact that a copy of the *Gazette* containing a notice of intention referred to in section fifty-five of this Act was not exhibited at every warden's office in Queensland in accordance with that section.

57. Special rules. (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. Such notice shall state a time within which such rules must be drawn up and submitted to the Chief Inspector.

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 health of such persons 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 him to be unreasonable and within such time as the notice might specify.

(4) The Minister may approve of a special rule when he 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 fifty pounds and, in addition, to a penalty not exceeding five pounds for each day during which his non-compliance 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 authorized 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.

58. Revocation of approval to special rule. 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, he may by notice published in the *Gazette* revoke his approval to that special rule and upon such publication such special rule shall cease to apply to the mine concerned.

59. Regulations and special rules to be exhibited. (1) The owner, authorized 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, authorized representative or manager of a mine who fails to comply with subsection (1) of this section commits a continuing offence against this Act and is liable to a penalty not exceeding fifty pounds and, in addition, to a penalty not exceeding five pounds for each day during which such offence continues.

PART VI—MISCELLANEOUS PROVISIONS

60. Obstruction to compliance with this Act null and void. 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 his complying or intending to comply, with this Act or special rules applicable to a mine, is null and void.

61. Complaint by employee. 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 his opinion, is required to remedy such matter.

The name of such employee or his representative shall not be divulged except to an officer of the Department of Mines.

62. Owner may attend at treatment of his ore or mineral. (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 his 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 authorized 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.

63. Returns. (1) Within thirty days from the thirty-first day of December in each year, and at such other times as the Minister may, in writing, direct, the Minister shall be supplied with a return in respect of each mine showing the labour employed, the work done, the ore treated, the machinery and other appliances in, on or about the mine and containing such other information as the Minister may, from time to time, require.

(2) The Minister may appoint, either generally or in a particular case, an officer to examine such returns and to check on the correctness of the information contained therein, and for this purpose the officer so appointed shall have access to all the books of the mine in respect of which he may be checking a return.

(3) When—

(a) a return is not supplied in respect of a mine as prescribed by this section; or

(b) a return supplied in respect of a mine is false in a material particular,

the owner, authorized representative and manager of the mine concerned commits an offence against this Act and is liable to a penalty not exceeding fifty pounds.

It is a defence to a charge of an offence under this section to prove that the defendant did not know and had no reasonable means of knowing that the offence had been committed.

(4) Any person who wilfully obstructs an officer appointed by the Minister under this section in gaining access to the books of a mine in respect of which such officer is checking a return required to be supplied under this section commits an offence against this Act and is liable to a penalty not exceeding fifty pounds.

64. Notification before drilling. (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 forty feet, the owner, authorized representative or manager of the mine shall give notification of the commencement of such drilling or extension to the Chief Inspector within one 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, authorized 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) (a) 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 one year after the completion of such borehole or extension.

(b) Notification of the proposed disposal of any such core or samples shall be given to the Chief Inspector in writing at least three months prior to the disposal of the same.

(c) Such core or samples kept under this section shall, at all times subsequent to a period of three 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 authorized in writing by the Minister in that behalf for the purpose of his 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 his duties under this section, or with the prior approval in writing of the Minister, no person shall disclose any information or knowledge which he has acquired directly or indirectly with respect to such core or samples in the discharge of his duties and the exercise of his 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, authorized 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 subsection (1) of this section.

65. (1) Offences. 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.

(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 the term “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 him by or on behalf of that other or his estate, as the case may require.

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

- (a) if he is the owner, authorized 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 one hundred pounds; and
- (b) if he is any other person, to a penalty not exceeding fifty pounds.

66. Liability of persons under this Act. (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, authorized representative or manager of that mine, then such owner, authorized 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, authorized representative or manager has been prosecuted for or convicted of his offence, each may be charged with and convicted of such offence.

(2) It is a defence for the owner, authorized 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) of this section, that he 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 two 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 one 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.

It is a defence for the manager or member of the governing body, as the case may be, of such body corporate that he 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, authorized 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 is, in the averment, alleged to have been.

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

68. Limitation of term "inspector" and appeal from the decision of an inspector and the Chief Inspector. (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

(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 his 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 said 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, authorized 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 him upon appeal made under subparagraph (a) of this subsection) to the Minister, whose decision shall be final and conclusive.

69. (1) Summary procedure to recover penalties. A proceeding taken under this Act for the recovery of a penalty may be taken in a summary way under “*The Justices Acts, 1886 to 1963*,” upon the complaint of an inspector or any person authorized by the Minister: Provided that when a penalty is sought for a contravention of, or non-compliance with, a special rule applicable to a mine the owner, authorized representative and manager of that mine may also institute proceedings for the recovery of that penalty in a summary way under the said Acts.

(2) Appropriation of penalty. When the justices hearing a complaint convict a defendant of an offence against this Act, and impose a penalty on him, 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.

An award under this subsection 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 “*The Workers' Compensation Acts, 1916 to 1962*,” 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) of this section all penalties, fees and other moneys recovered or received by a Clerk of Petty Sessions, warden, inspector or officer appointed under and for the purposes of this Act pursuant to this Act shall be paid to Consolidated Revenue.

70. Service of notices, &c. A notice, document or writing required by this Act to be given to any person may be delivered to that person or, in the alternative, shall be deemed to have been so delivered if it is sent by prepaid post letter addressed to that person's usual or last known address.

71. Saving of "The Inspection of Machinery Acts, 1951 to 1963." Nothing in this Act shall be deemed to affect the operation of the provisions of "*The Inspection of Machinery Acts, 1951 to 1963*" :

Provided that any winding engine, being a lift, in, on or about a mine shall be constructed, installed, altered, added to, maintained and operated in accordance with the provisions of this Act.