

New Zealand.



ANALYSIS.

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1886, No. 31.

AN ACT to regulate the granting of Coal Mines Leases and to make better provision for the Regulation and Inspection of Coal Mines. Title.
[17th August, 1886.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Coal Mines Act, 1886." Short Title.
2. "The Regulation of Mines Act, 1874," so far as it may relate to coal mines, is hereby repealed: But such repeal shall not affect anything done or suffered before the commencement of this Act, and all penalties incurred under the said repealed Act may be proceeded for and recovered and applied as if this Act had not been passed. Repeal.

Notwithstanding the said repeal, all Orders in Council, Proclamations, appointments, awards, orders, and rules or regulations made under the said Act, and in force at the time of the commencement of this Act, shall continue and be in force until new Orders in Council, Proclamations, appointments, awards, orders, and rules or regulations shall be made under the provisions of this Act.

Nothing in this Act contained shall be construed to amend or affect "The Westland and Nelson Coal Fields Administration Act, 1877," or any Act amending the same.

3. In this Act, if not inconsistent with the context,— Interpretation.

"Agent" means any person having for the time being, on behalf of the owner, the care and direction of the mine;

"A week" shall be deemed to begin at midnight on Saturday night, and to end at midnight on the succeeding Saturday night;

"Boy" means a male person of or above the age of twelve years and under the age of fourteen years;

"Coal" means anthracite, black coal, brown coal, and includes lignite and every other mineral used for fuel;

- “Coal mine” or “Mine” means every colliery and coal or shale mine, whether in actual work, or discontinued, or exhausted, or abandoned; and every shaft, pit, level, and inclined plane in course of being made or driven for commencing or opening any such colliery or coal mine, and all works belonging thereto respectively;
- “Coal-mining lease” means a lease for raising coal as hereinbefore defined;
- “Inspector of Mines” or “Inspector” means an Inspector of Mines appointed for the purposes of this Act;
- “Land Board” or “Board” means the Land Board of any land district constituted under “The Land Act, 1885;”
- “Lease” means a lease of land granted under this Act for coal-mining purposes;
- “Machinery” means and includes steam and other engines, boilers, furnaces, winding and pumping gear, whims, windlasses, chains, trucks, tramways, tackle, blocks, ropes, tools, and all appliances of whatsoever kind used for the extraction of coal, or for any coal-mining purpose;
- “Manager” or “Mining Manager” means the person having the control and daily supervision of a mine;
- “Minister” means the Minister of Mines;
- “Owner,” when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; and, in the case of a company incorporated under any Act for the registration of mining companies, or relating to Joint Stock Companies, shall include the manager of such company, and in any other case the person having the management of mining operations carried on in a mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability;
- “Plan” includes a map and section, and a correct copy or tracing of any original plan as so defined;
- “Prescribed” means prescribed by this Act, or by any regulations made thereunder;
- “Underground Manager” means the mining manager or other person having the particular control and direction of the underground workings in a mine;
- “Youth” means a male person of or above the age of fourteen years and under the age of eighteen years.

COAL-MINING LEASES.

4. Every Land Board shall have power to grant leases of land for raising coal subject to the provisions of this Act, and not otherwise.

Land Board may grant leases for raising coal.

In the exercise of the aforesaid power the Board, subject to the approval of the Governor, may grant leases for raising coal from any seam which may lie under the sea, or any part of the foreshore thereof below high-water mark, or under any tidal river, anything contained in "The Harbours Act, 1878," notwithstanding; and all persons taking coal from any such seams as aforesaid, unless duly authorized in that behalf as herein provided, shall be deemed to be in the illegal occupation of Crown lands within the meaning of this Act.

5. Subject as mentioned in the last-preceding section, the Board—

(1.) May grant leases for raising of coal in substitution for licenses and provisional licenses issued before the passing of this Act under sections two hundred and twenty and two hundred and twenty-five respectively of "The Land Act, 1885," or under any enactment previously in force to the like effect.

May grant leases for raising coal in substitution of licenses previously issued.

(2.) May grant licenses to authorize the holders thereof to occupy for any period not exceeding three years from the granting thereof, not more than ten acres of Crown lands for the purpose of raising lignite; and may grant leases in substitution thereof if required for a further period.

May grant leases or licenses for raising lignite.

From and after the passing of this Act the words "raising of lignite or coal," in section two hundred and twenty of "The Land Act, 1885," shall be repealed.

Provisions of Land Act to same purport superseded.

6. If any person shall find himself aggrieved at the refusal of the Board to grant him a lease under this Act, or as to the area to be comprised in such lease, he may petition the Governor for a review of his case, and the Governor may thereupon grant a lease under the public seal of the colony or refuse such lease, or vary the terms of the lease proposed to be granted to the said person by the Land Board.

Person aggrieved may petition the Governor for a review of his case.

But previous to granting any lease under the authority of this section the Governor in Council shall cancel any existing lease granted by the Board of so much of the land comprised in the lease as may be included in the lease proposed to be issued by him, and no person shall be entitled to claim or to receive compensation in respect of any lease being so cancelled.

7. All powers and authorities granted or conferred by "The Land Act, 1885," on Land Boards and Commissioners of Crown Lands respectively as to the granting of leases of land and in respect to leases thereunder, and which are not inconsistent with the provisions of this Act, shall apply and may be exercised as to coal-mining leases to be granted or granted under this Act and in respect to lessees thereunder.

Leases to be granted as under Land Act.

Every lease granted under the authority of this Act shall be executed in the same manner as other leases granted by a Land Board.

The Commissioner of Crown Lands of each land district shall, within the first seven days of each month, transmit particulars of the situation, terms, and conditions of every lease issued under this Act within his district during the last preceding month, and of every transfer, surrender, or forfeiture of any such lease, and shall also transmit to the Minister such other particulars in respect of the grant or refusal of any coal leases within the jurisdiction of such Commissioner as the said Minister may require.

Monthly return of leases to be sent to Minister of Mines.

Applications for leases.

8. Applications for leases must be made in writing to the Land Board and accompanied by a deposit of three shillings for every acre applied for, which deposits shall be credited to the applicants respectively against any fees, rents, and royalties that may be or may thereafter become due in respect of their said applications or leases.

Priority.

Where more than one application is made for a lease of the same land, precedence shall be in the order of the receipt of the applications by the Board.

Area, rent, and royalties of leases.

9. Every lease shall be made subject to such conditions as the Board shall think fit, and shall contain clauses for securing the proper and effectual working of the coal within the land thereby demised, and for the surrender of the said land at the end or earlier determination of the lease.

- (1.) Shall be for a term not exceeding thirty years, but may be extended as provided in section fifteen, if the Minister is satisfied that the conditions of the lease have theretofore been well observed.
- (2.) Shall comprise an area not exceeding six hundred and forty acres, and shall impose a dead rent at the rate of not less than one shilling nor more than five shillings per acre, to be fixed by the Board.
- (3.) Shall reserve a royalty on all coal raised under its powers at the rate of not less than threepence nor more than one shilling per ton.
- (4.) Shall provide that when and so long as the amount of royalty on any coal mining lease exceeds the sum paid as rent, the rent charge shall cease.

Reservations and exceptions in leases.

10. Every lease granted under the authority of this Act for coal mining purposes shall be deemed to have been granted subject to the following reservations and conditions:—

- (1.) The surface of the soil shall be and be deemed to have been excepted from any demise thereby made, and such surface shall be and be deemed to have been and continue to be vested in Her Majesty, except in so far as may be necessary for the construction by the lessee of any tramways or the erection of buildings, machinery, and plant, or the storing coal, or as spoil-banks for waste coal or other refuse.
- (2.) There shall be and be deemed to have been excepted out of any such demise unto Her Majesty, her successors and assigns, all timber trees and trees likely to be timber, standing, growing, or being, or which at any time during the term of any such lease shall stand, grow, or be in or upon the demised premises or any part thereof, together with free liberty of ingress, egress and regress to and for Her Majesty, her successors and assigns, the Governor and the Minister of Lands, and all persons having her, his, or their authority so to do, to fell, cut, and carry away the same at fit and reasonable times: Provided, nevertheless, that every lessee of a coal-mining lease shall and may cut down any timber trees for the purpose of constructing any tramway or railway thereon, or rolling stock for such railway or tramway, or any buildings, or for prop-wood or

firewood, or other necessary purposes incidental to the proper working of any coal mine, railway, or tramway.

- (3.) There shall be and be deemed to have been excepted out of any such demise unto Her Majesty, her successors and assigns, all metals and minerals other than coal that are, shall, or may be found upon the demised premises, with leave for Her Majesty, her successors and assigns, the Governor and the Minister, and all persons authorized by her, him, or them, at all reasonable times to enter into and upon the demised premises to search, dig, get, have, take, and carry away the same.
- (4.) That the lessees shall and will permit the Queen, or the Governor, or the Minister, or his or their agents, inspectors, viewers, workmen, servants, or any other person or persons whom she, he, or they may appoint, to enter upon the demised land, mines, and premises at all reasonable times, and to survey and inspect and make plans of the said mines and works, and to see whether the said mines and works are in good and substantial order, condition, and repair, and are ventilated, worked, managed, and carried on in a proper and workmanlike manner, according to the true intent and meaning of such lease. And that the lessees shall and will help and assist such person or persons so entering as aforesaid by means of their agents and other workmen, and permit them to have the use of the engines, implements, and utensils for the purpose of such inspection as aforesaid.

And every such lease shall be read and construed as if such exceptions, reservations, and conditions were set out in such lease in words at length.

11. Every lease shall be subject to the stipulation that the Governor may, if he shall think fit, authorize the construction, in or upon any land comprised in any lease under this Act, of any race, dam, road, canal, railway, tramway, or other works which may be required for public convenience.

Power reserved to construct public works.

12. In any case in which an application shall have been made in pursuance of this Act for a lease of land in any part of which any person other than the applicant or applicants may be entitled under any license to cut, construct, or use any race or dam, or to enjoy any other easement for mining or other purposes, the Governor may, if he shall think fit, authorize the issue of a lease of such land subject to all existing rights in, to, or to the use of such race or dam or other easement, and impose such terms as the said Governor may think fit in order to secure the enjoyment of the same or to secure compensation for any injury or inconvenience likely to arise to such person by reason of the issue of such lease.

Leases may be subject to prior existing rights.

13. Every lessee of a coal-mining lease may, with the consent in writing of the Minister first had and obtained, assign, underlet, or otherwise part with the possession of the demised premises or any part thereof, or his estate or interest therein, notwithstanding there shall be contained in any such lease any provision to the contrary, and no other consent whatsoever shall be requisite.

Power to lessee to assign or sublet.

Lease may be surrendered for new lease.

14. The Board may, with the consent in writing of the Minister first had and obtained, allow any lessee of a coal-mining lease to surrender his lease, and may with the like consent grant to such lessee, or to any person appointed by him, a fresh lease for the whole or part of the demised land for an extended term or otherwise, upon such terms and conditions and under and subject to such rents and royalties, powers, provisions, and covenants as may be agreed upon.

Leases may be extended to ninety-nine years.

15. Every lease may be extended to any term not exceeding ninety-nine years, to take effect in possession and not in reversion. And such leases may, with the consent in writing of the Minister, be amalgamated or consolidated with other coal-mining leases.

Rents and royalties to form part of Consolidated Fund.

16. All rents, royalties, fees, and other moneys arising from any lease granted under the authority of this Act shall be paid into the Public Account, and form part of the Consolidated Fund.

REGULATION OF MINES.

Governor may appoint Inspectors.

17. The Governor may from time to time appoint such competent persons as he shall think fit to be Inspectors of Mines under this Act, and may from time to time allocate to such persons respectively localities within which they shall exercise their functions.

All persons who at the date of the coming into operation of this Act may be Inspectors of Mines under "The Regulation of Mines Act, 1874," shall be and shall be deemed to be Inspectors of Mines under this Act.

No Inspector under this Act shall be allowed to hold any interest whatever in any mine in the locality in which he is authorized to act.

No Inspector shall act or practice as a land agent or as a manager, viewer, or agent, or mining engineer, or a valuer of land, or arbitrator in any matter of dispute arising between owners of mines, or be employed in any way in any mine otherwise than in his official capacity under this Act.

Concurrent powers of Inspectors of Machinery and Inspectors of Mines.

Nothing in this Act contained shall be deemed to abridge or annul any of the provisions of "The Inspection of Machinery Act, 1882," or any Act amending the same; nor to affect the duties of any Inspectors appointed under the said Acts in relation to the inspection in mines of machinery and boilers coming within the operation of the Acts last aforesaid; but every Inspector of Mines shall have the same powers as the aforesaid Inspectors, and it shall be their duty regularly to inspect all machinery in mines, excepting steam engines and boilers, and to see that such machinery is safe in all its parts and in good working order.

Mining manager to be appointed.

18. Every coal mine shall be under the control and daily supervision of a manager, and the owner or agent of every such mine shall nominate himself or some other person (not being a contractor for getting the mineral in such mine, or a person in the employ of such contractor) to be the manager of such mine.

Every coal mining company, whether registered or co-operative, shall appoint and continue to have a manager who shall be deemed the mining manager of the company under this Act.

The name and address of every manager for the time being shall be notified in writing to the Inspector, and also to the Minister, and

no person shall be so appointed who has not the management of the mining operations carried on by such company.

If any mine is worked for more than three days without there being such a manager for that mine as is required by this section, the owner and agent of such mine shall each be liable to a penalty not exceeding fifty pounds, and to a further penalty not exceeding ten pounds for every day during which such mine is so worked.

Any manager as aforesaid of a mine may also hold the office of underground manager thereof, but such offices may be held by different persons. Underground
Manager.

If any manager is incapacitated from performing his duties, or is about to be unavoidably absent for more than three days, he or the agent shall appoint some fit person to act as deputy-manager during such illness or absence; but no such deputy shall act for more than fourteen days unless authorized to do so by the Inspector.

19. Every person who, after the day of the passing of this Act, shall be engaged or act in the capacity of an underground manager of a mine, shall within three years after the day last aforesaid, pass an examination and obtain a certificate of competency as to his possessing the necessary knowledge and requirements in working a mine; for which purpose he shall make application in manner as may be prescribed by regulations, and shall forward with such application the sum of one pound sterling as a fee for such certificate; and such fee shall entitle the applicant to come up for another examination after a period of three months without further charge, in the event of his failing to pass his first examination. Manager or other
person in charge of
underground work-
ings to be certi-
ficated.

The Minister may cause service certificates of competency to be granted without undergoing any examination as aforesaid to any person of good repute who shall make application for the same to the Minister within twelve months from the date of the passing of this Act and shall forward the sum of ten shillings as a fee for the said certificate, if such person shall give proof satisfactory to the Minister of his having been engaged and acted continuously in the capacity of an underground manager in any mine for a period of twelve months immediately previous to the passing of this Act.

Provided always that it shall be lawful for the Inspector to grant a certificate of exemption from the operation of this section to any manager or owner whose mine does not, in his opinion, require a certificated manager or underground manager. Provisos.

It is further provided that any person producing a certificate of competency from any duly-recognised authority shall, on paying the fees mentioned in this section, and satisfying the Minister of his *bona fides*, be entitled to have a certificate of competency granted to him.

Every person acting as an underground manager shall, on demand of any Inspector of Mines, Inspector of Machinery, or other person authorised by the Minister, produce his certificate of competency.

Any person acting in the capacity as underground manager after a period of three years from the date of the passing of this Act without a certificate of competency obtained under the provisions of this section shall be deemed guilty of an offence against this Act, and shall Penalty.

be liable to a penalty not exceeding five pounds for every day during which he shall act in such capacity after the date aforesaid.

Certain persons not to be employed in mines.

20. No female of any age, and no male child under the age of twelve years, shall be employed in any capacity in or about any mine.

Boys under the age of fourteen years if of or above the age of twelve years may be employed about a mine, but shall not be employed below ground in any mine.

Youth not to be employed as lander or bracedman at brace set over shaft. Hours of work for youths and boys.

21. No youth shall be employed as lander or bracedman at any time at a brace set over any shaft. No boy or youth shall be employed for more than forty-eight hours in any week, exclusive of the time allowed for meals, nor more than eight hours in any day, except in cases of emergency.

But no person shall be deemed guilty of an offence against this Act for a contravention of that part of this section relating to the time for which persons shall not be employed below ground, if he prove before any two Justices not being interested in any mine in which such person or persons are employed that there were special circumstances to render such contravention necessary for the proper working of the mine, and that such contravention was not injurious to the workmen employed in the mine.

No person under eighteen years old to work engine, winding-gear, &c.

22. Wherever any entrance to any mine or any communication within any part of any mine to any other part thereof shall be by means of a vertical shaft or pit or inclined plane or level, no person other than a properly competent person of the full age of eighteen years shall have charge of any engine, windlass, or gin (whether driven or worked by manual labour or any other power), or of any part of the machinery, ropes, chains, or other tackle, by or by means of which persons are brought up or passed down or along any such vertical shaft or pit or inclined plane or level.

Every owner or agent or other person who shall knowingly employ or permit any person other than as aforesaid to have any such charge shall, for every such offence, be liable to a penalty not exceeding fifty pounds.

Person in charge of steam machinery to be employed certain number of hours only.

23. No person in charge of steam machinery used in connection with any mine, or for the treatment of the products of any mine, shall be employed for more than eight consecutive hours at any time; such period of eight hours shall be exclusive of any time occupied in raising steam and in drawing fires and exhausting steam in connection with the machinery in charge of such person, and exclusive of meal hours, and of any time in which such person is employed, in case of breakage or other emergency.

Every person in charge as aforesaid who is guilty of negligence by which any property is destroyed or damaged, shall be guilty of an offence against this Act.

Register to be kept.

24. The owner, agent, or manager of every mine to which this Act applies shall keep a register, and shall cause to be entered in such register the name, age, residence, and date of first employment of all youths who are employed in the mine below ground, and of all boys of or above the age of twelve years and under the age of fourteen years employed above ground in connection with the mine, and shall produce such register to any Inspector under this Act at the mine at all reasonable times, and allow him to inspect and copy the same.

25. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect to the employment of youths or boys, or to the register of youths or boys, he shall be guilty of an offence against this Act.

Penalty for employing persons in contravention of Act.

In case of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager shall each personally be guilty of an offence against this Act, unless he prove that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of this Act, to prevent such contravention or non-compliance.

If it appear that a youth or boy employed in a mine, or that a person employed about an engine, windlass, or gin, was employed on the representation of his parent or guardian that he was of that age at which his employment would not be in contravention of this Act, and under the belief in good faith that he was of that age, the owner, agent, or manager of the mine and employer shall be exempted from any penalty; and the parent or guardian shall, for such misrepresentation, be deemed guilty of an offence against this Act.

If it appear that any youth or boy, working for or with his parent, or guardian, or other person, or under his order or charge, be kept at work for a longer period than is prescribed by this Act, such parent, guardian, or person shall be responsible therefor.

26. The following general rules shall, so far as may be reasonably practicable, be observed in every mine:—

General rules.

- (1.) An adequate amount of ventilation shall be constantly produced in every mine to such an extent that the shafts, winzes, sumps, levels, underground stables, and working places of such mine, and the travelling roads to and from such working places, shall be in a fit state for working and passing therein.

Ventilation.

An adequate amount of ventilation shall mean not less than one hundred cubic feet of pure air per minute for each man and youth, and horse, pony, donkey, or mule, which shall sweep undiminished along the airway past each working-place.

- (2.) Gunpowder or other explosive or inflammable substance shall only be used in a mine as hereunder provided, that is to say,—

Gunpowder and blasting.

(a.) It shall not be stored on the surface of or adjacent to the mine unless in such magazine and in such quantities as may in writing be approved by the Minister:

(b.) It shall not be stored in the mine in any quantity exceeding what would be required for use during one working day for the purposes of the mine; and, if stored in the mine, it shall be kept in a drive or chamber separated by a door fixed across such drive at least thirty feet from any travelling road:

(c.) It shall not be taken for use into the workings of the mine except in a securely covered case or canister containing not more than eight pounds of gunpowder, nor more than five pounds of nitro-glycerine compounds:

(d.) A workman shall not have in use at one time in any one place more than one of such cases or canisters :

(e.) Detonators for blasting shall be kept on the surface of the ground in a covered box placed in the powder magazine.

Not more than one hundred detonators shall be kept in any mine at one time, and these shall be kept in a covered box in the drive or chamber set apart for storing explosives as hereinbefore provided, and only taken out in such quantities as required for immediate use. Detonators shall not, on any pretence whatsoever, be placed near any travelling road, pass, or working face :

(f.) No person shall enter with a naked light a powder magazine or any excavation in a mine where powder or other explosive or inflammable substance is stored :

(g.) No iron or steel pricker shall be used in blasting in any mine, and no iron or steel tool shall be used in tamping or ramming, and no iron or steel pricker or tamping-bar shall be taken into any mine :

(h.) A charge which has missed fire may be drawn by a copper pricker, but shall not be visited until three hours have elapsed from the time of lighting the fuse of such charge ; but in no case shall an iron or steel drill be used for the purpose of drawing or drilling out such charge, nor shall any charge be drawn where nitro-glycerine compounds or detonators have been used :

This subsection shall not apply to charges fired by an electric current :

(i.) No person under the age of twenty-one years shall be allowed to charge a hole with explosives, or to fire any charge of explosives :

(j.) No drill-hole shall be bored within a distance of three feet directly below or within one foot in any other direction from the site of a previously-exploded charge of any nitro-glycerine compound, and no drill-hole shall be bored in any remaining portion of a hole in which a charge of nitro-glycerine compound has been previously exploded :

(k.) In all cases where the fumes arising from the explosion of any nitro-glycerine compound cannot be effectively dispersed by ventilation or spray of water from the mine, such fumes shall be neutralized or rendered innocuous by the person in charge of the blasting operations by the use of a spray of solution of sulphate of iron before the miners are permitted to return to the sites of such blasting operations :

(l.) Mining companies or persons employing miners in blasting with nitro-glycerine compounds shall supply such miners with the means of thawing such compounds, and with the means of producing sulphate of iron spray.

- (3.) Every underground plane on which persons travel which is self-acting or worked by an engine, windlass, or gin, shall be provided (if exceeding thirty yards in length) with some proper means of signalling between the stopping-places and the ends of the plane, and shall be provided in every case at intervals of not more than twenty yards with sufficient man-holes for places of refuge. Man-holes in self-acting or engine planes.
- (4.) Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided at intervals of not more than one hundred yards with sufficient spaces for places of refuge, each of which spaces shall be of sufficient length and of at least three feet in width between the wagons running on the tramroad and the side of the road. Spaces in horse roads.
- (5.) Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or such space so as to prevent access thereto. Keeping spaces clear.
- (6.) The top and all entrances between the top and bottom of every working or pumping-shaft shall be properly and securely fenced or securely covered; but this provision shall not be taken to forbid the temporary removal of any fence or cover for the purpose of repairs or other operations if proper precautions are used. Fencing off entrance to shafts.
- Every abandoned or disused shaft shall be fenced or securely covered in by the lessee or registered owner thereof, and its position indicated on the surface by a post or cairn of stones, or such other permanent distinguishing mark as the Inspector shall think sufficient.
- (7.) When a fence or cover has been temporarily removed from any entrance to a shaft to admit of the performance of ordinary mining operations a strong horizontal bar shall be securely fixed across such entrance, not less than three nor more than four feet from the floor of the brace-chamber or drive, as the case may be. Horizontal bar to be provided where fence or cover is temporarily removed.
- (8.) Where the natural strata are not safe every working or pumping-shaft shall be securely cased, lined, or otherwise made secure; for which purpose an ample supply of sound good timber shall be kept on the ground ready for immediate use. Securing of shafts.
- (9.) Every drive and every excavation of any kind in connection with the working of a mine shall be securely protected and made safe for persons employed therein. Drive and excavation to be protected.
- (10.) Suitable lights, effectually protected from draughts of air, shall be provided for the use of miners when travelling in the main drives of any mine, and the upper entrance to every winze, rise, or jump-up, while open or unfenced, shall be illuminated by a fixed light. Protected lights to be used in main drives.
- (11.) Where one portion of a shaft is used for the ascent and descent of persons by ladders or a man-engine, and another portion of the same shaft is used for raising material or

Division of shafts.

- pumping, the first-mentioned portion shall be cased or otherwise securely fenced off separate from the last-mentioned portion.
- Signalling. (12.) Every working shaft in which a cage is used, and every division of such shaft in which persons are raised and lowered, and every shaft in which appliances worked by steam or other machinery are used, shall be provided with guides and some proper means of communicating distinct and definite signals for the bottom of the shaft and from every entrance for the time being in work between the top and the bottom of the shaft to the top, and thence to the engine-room, and from the engine-room and top to the bottom of the shaft and to every entrance for the time being in work between the top and the bottom of the shaft; and no verbal signals or communications shall be made up or down a shaft exceeding fifty yards in depth in which cages are used except through speaking tubes or telephones in the pump compartment of such shaft.
- Every person employed in a mine shall make himself acquainted with the system of signals used in such mine.
- A line or some other appliance shall be provided in each shaft to admit of danger-signals being communicated to the engine-driver from any portion of such shaft.
- Clear view for engine driver. (13.) A clear view shall be kept for the engine-driver between his station and the shaft at the surface-brace.
- All modes of signalling to be clear and distinct. (14.) All methods of signalling in mines to indicate that men or material are to be raised or lowered in shafts shall be clear and distinct, and shall be posted in a clear and legible form on framed boards, one of which shall be placed at the chamber at the bottom of the workings in the shaft, and the other at the brace at or near the top of the shaft.
- Such methods shall be subject to the approval of the Inspector, and shall also be subject to such alterations and amendments as may from time to time be indicated by the Minister on the report of the Inspector; and any neglect to carry out such indicated alterations or amendments shall be an offence against this Act.
- Cover over-head. (15.) A cage shall have a sufficient cover overhead when used for lowering or raising persons in any working shaft; such cage cover shall be constructed of iron not less than one-quarter part of an inch thick, and shall be securely hung on hinges and fitted with sloping sides, so as to be readily lifted upwards by persons within the cage. Wherever practicable, all persons working in shafts shall be protected overhead from falls of material down such shafts by means of a roof or other suitable appliance.
- Descent of material. (16.) No iron, timber, tools, rails, sprags, or other material, except for repairing the shaft, shall be placed in the same cage in which men are being lowered or raised from their work.
- Braces to be covered over-head. (17.) Every brace or pit bank shall be properly covered to protect the workmen from the inclemency of the weather.

- (18.) A proper ladder or footway shall be provided in every shaft in which a whim, whip, or windlass is used, and in every working pit or shaft where no machinery is used for lowering or raising persons employed therein. Proper ladder or footway.
- (19.) A single-linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling chain attached to the cage or load. When chains are employed as couplings to cages two single-linked chains of uniform size shall be used to each coupling. Chains.
- (20.) Before any rope or chain is used in the shaft of a mine it shall be tested and proved to be equal to carrying twice the weight of the ordinary load; and in mines where men are lowered or raised in shafts the ropes and chains shall be periodically tested at intervals of not more than three months to carry twice the weight of the ordinary load. Ropes and chains to be tested.
- (21.) There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping. Slipping of rope on drum.
- (22.) There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons an adequate brake, and also a proper indicator (in addition to any mark on the rope) to show to the person who works the machine the position of the cage or load in the shaft. Brake.
- (23.) Every cage used in a mine shall be fitted with special and suitable appliances to prevent its sudden fall down a shaft, and also to prevent it coming into contact with the poppet-heads: Cages to have suitable appliances.
- (24.) Spring catches or automatic or self-acting doors or tumblers of a suitable kind shall be affixed to the skids or guides below the poppet-heads of every shaft in which a cage is used to prevent the fall of such cage down the shaft when detached from the rope or chain by overwinding. Spring catches or tumblers to be affixed to skids.
- (25.) In any shaft exceeding twenty feet in depth in which cages are not used, no person shall descend or ascend by the aid of machinery, unless, in addition to the use of the loop, crossbar, or other appliance, he be securely stayed to the rope employed for lowering or raising in such shaft by a strap or other fastening passing round the body under the arms, and such method of staying shall be used by every person who finds it necessary, in the execution of his duty, to descend or ascend a shaft on top of the cage-covers. Protection to persons ascending or descending shaft.
- (26.) A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or overhanging position, unless in shafts used exclusively for pumping, and shall be inclined at the most convenient angle which the space in which the ladder is fixed allows, and every such ladder shall have substantial platforms, at intervals of not more than thirty feet, and a suitable Inclination of ladders.

- fixture for a hand-grip shall be placed above such ladder, for the use of persons ascending or descending such ladder.
- Dressing-rooms (27.) If more than four persons are employed in the mine below ground in one shift, sufficient accommodation shall, if ordered by the Inspector, be provided above ground near the principal entrance of the mine, and not in the engine-house or boiler-house, for enabling the persons employed in the mine to conveniently dry and change their dresses, and in no case shall men be allowed to change their dresses upon a boiler.
- Person in charge of machinery. (28.) No person under the age of twenty-one years shall be placed in charge of or have the control of any steam-engine or boiler used in connection with the working of any mine. No person in charge of steam machinery in connection with the working of any mine shall, under any pretext whatever, unless relieved by a competent person for that purpose, absent himself or cease to have continual supervision of such machinery during the time it is used in working the mine.
- Machinery to be examined. (29.) All machinery in which steam, water, or air, or any two or more of them are used as motive power, shall be subject to the provisions of "The Inspection of Machinery Act, 1882," so far as the same shall reasonably apply, and no such machinery, erected or fitted up, shall be employed until it has been examined by an Inspector appointed under the last-mentioned Act, and certified by him to be in proper and fit working condition.
- Machinery to be kept in good order and condition. (30.) All boilers, compressors, engines, gearing, and all other parts of machinery, when used for any mining purpose, or for the treatment of the products of any mine, shall be kept in a fit state and condition.
- Fencing machinery (31.) Every fly-wheel, and all exposed or dangerous parts of the machinery, and every tramway constructed on an elevated platform, shall be and be kept securely and safely fenced, except tramways worked by ropes.
- Gauges to boiler and safety-valve. (32.) Every steam-boiler shall be provided with a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety-valve; and at least once in every six months, or oftener if required, every boiler shall be thoroughly cleansed; and once in every twelve months every such boiler shall be subjected to an hydraulic test, and the date and full description of every such test and cleansing shall be entered in a book to be kept by the mining manager or other person in charge of the mine, and the entries in such book shall, on demand, be open to the perusal of any Inspector under this Act, or under "The Inspection of Machinery Act, 1882."
- Vertical shafts to underground furnaces. (33.) The smoke from every boiler for generating steam, and from every furnace used in any part of the underground workings of a mine, shall not be allowed to escape into

- any part of such workings, nor in any manner other than by means of an air-tight flue conducting such smoke directly from the boiler or furnace into a vertical shaft cut in the rock up to the surface of the ground to the open air, or built up to the surface as aforesaid with bricks and cement, in manner as to be completely air-tight.
- (34.) No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act. Wilful damage.
- (35.) No person shall, after any shaft has become disused for mining purposes, wilfully damage or render useless such shaft by the removal of any fencing, covering, casing, lining, ladder, platform, or other appliance provided in such shaft without the consent of the Minister. Protection of abandoned shafts.
- (36.) In every working in a mine approaching a place likely to contain a dangerous accumulation of water, boring-rods shall be kept and used for the purpose of perforating the ground twenty feet in advance of or near, or at any angle from such working, and no drive, gallery, or other excavation shall be made within a dangerous distance of such accumulation of water or firedamp. Boring-rods to be used.
- (37.) In every mine which in the opinion of an Inspector is liable to an inundation or inburst of water, such additional rises, chambers, drives, and other workings, or any of them, shall be constructed as may seem necessary and as may be prescribed by the Minister for the escape of workmen from the lower workings, or to insure their safety in every such mine during the period of any inundation or inburst of water in such mine. Mines liable to flood to be provided with escape-drives.
- (38.) Ladders and, when necessary, convenient platforms connected therewith, shall be provided in each rise, jump-up, or passage giving access to workings at a higher level in a mine, and a notice shall be posted at the foot of each such rise, jump-up, or passage, stating the height of such rise, jump-up, or passage to the chamber or drive above. Ladders to be provided in "jump-ups."
- (39.) The manager of every mine, or other competent person or persons appointed for such purpose, shall once at least in every twenty-four hours examine the state of all safety-appliances or gear connected with the cages, winding-ropes, or shafts in the mine, and shall once in each week carefully examine the buildings, machinery, shafts, levels, planes, and all places used in the working of such mine, and shall record in writing, in a book to be kept for that purpose, his opinion as to their condition and safety, and any repairs, and as to any alterations required to insure greater safety to the persons employed in the working of such mine, and such book shall, on demand, be open to perusal by any Inspector under this Act; and every such safety appliance or gear, if condemned

- by any Inspector of Mines or Inspector of Machinery, shall forthwith be removed or made fit.
- Examination of mine.
- (40.) In every mine once in every twenty-four hours, if one shift of workmen is employed, and once in every twelve hours, if two shifts are employed during any twenty-four hours, a competent person, or competent persons, who shall be appointed for the purpose, shall, before the time for commencing work in any part of the mine, inspect with a safety-lamp that part of the mine and the roadways leading thereto, and shall make a true report of the condition thereof, so far as ventilation is concerned; and the workmen shall not go to work in such part until the same and the roadways leading thereto are cleared from gas by ventilation and stated to be safe.
- Every such report shall be recorded without delay in a book, which shall be kept at the mine for the purpose, and shall be signed by the person making the same.
- Stations to be appointed.
- (41.) In every mine in which inflammable gas has been found within the preceding twelve months, a station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require, and a workman shall not pass beyond any such station until the mine or part of the mine beyond the same has been cleared from gas by ventilation, and inspected and stated to be safe, and such inspection shall be made within two hours before the time fixed for the miners commencing work.
- Fencing of places not in use.
- (42.) All entrances to any place, not in actual course of working and extension, shall be properly fenced across the whole width of such entrance, so as to prevent persons inadvertently entering the same.
- Withdrawal of workmen in case of danger.
- (43.) If at any time it is found by the person for the time being in charge of the mine or any part thereof that, by reason of noxious gases prevailing in such mine, or such part thereof, or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine, or such part thereof as is so found dangerous; and a competent person who shall be appointed for the purpose shall inspect the mine, or such part thereof as is so found dangerous, and, if the danger arises from inflammable gas, shall inspect the same with a locked safety-lamp, and in every case shall make a true report of the condition of such mine, or part thereof; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger, or for the removal thereof, or for exploration, be readmitted into the mine, or such part thereof as was so found dangerous, until the same is stated by such report not to be dangerous.
- Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person making the same.
- Safety lamps and lights.
- (44.) Whenever safety-lamps are required by this Act, or by the special rules made in pursuance of this Act, to be used,

such lamps shall be supplied by the owner, agent, or manager, of a pattern to be approved by the Inspector. A competent person who shall be appointed for the purpose shall examine every safety-lamp immediately before it is taken into the workings for use, and ascertain it to be secure and securely locked; and, in any part of a mine in which safety-lamps are so required to be used, they shall not be used until they have been so examined and found secure and securely locked, and shall not without due authority be unlocked; and in the said part of the mine a person shall not, unless he is appointed for the purpose, have in his possession any key or contrivance for opening the lock of any such safety-lamp, or any lucifer match or apparatus of any kind for striking a light.

- (45.) After inflammable gas has been found in any mine, it shall be cleared by ventilation, and a barometer and thermometer shall be placed above ground, in a conspicuous position, near the entrance to the mine. Barometer and thermometer.
- (46.) Where a place is likely to contain a dangerous accumulation of water, the working approaching such place shall not exceed eight feet in width, and there shall be constantly kept, at a sufficient distance, not being less than twenty feet in advance, at least one bore-hole near the centre of the working, and sufficient flank bore-holes on each side. Water and bore-holes.
- (47.) The persons employed in a mine may, at their own cost, appoint two of their number to inspect the mine, and the persons so appointed shall be allowed once at least in every month to go to every part thereof, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings, and machinery, and the owner, agent, and manager (who may, if they think fit, accompany them), and all persons in the mine shall afford every facility for the purpose of such inspection, and the persons so appointed shall make a true report of the result of such inspection, and such report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons reporting. Miners may appoint two persons to inspect mine.
- (48.) The books mentioned in this section, or a copy thereof, and a copy of the Act, shall be kept at the office at the mine, and any Inspector under this Act, and any person employed in the mine, may, at all reasonable times, inspect and take copies from any such books, or extracts from such Act. Books and copy of Act to be kept at mine.

Any manager or any person in charge of or giving orders or directions relating to the carrying on of any mining operations in a mine who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance.

A printed copy of the rules provided for in this section shall be posted in the office and on a building or board in some conspicuous place in connection with every mine.

Special rules for particular mines.

27. Within three months after the commencement of this Act, or within three months after work shall be commenced or resumed at any mine, if the Inspector shall so direct, the owner or agent thereof shall frame special rules for the conduct and guidance of persons acting or employed in or about such mine as may appear under the particular state and circumstances best calculated to ensure the health and safety of such persons, and such owner or agent shall cause a copy of such special rules to be hung up in some conspicuous place in the mine and call the attention of the miners working therein to such special rules, a copy of which shall at once be transmitted by the owner or agent to the local Inspector, who shall forthwith transmit them with a report of their respective fitness to the Minister, and if they are not objected to within one month after the receipt thereof by the Minister, they shall be the special rules of the mine, and published in manner mentioned in section thirty. But no special rules shall be required in respect to any mine where not more than seven men are regularly employed.

Amendment of special rules.

28. If the Minister do not approve of any proposed special rules he shall within thirty days after the receipt of them propose and transmit to the owner or agent by whom they were framed, and to some person on behalf of the miners employed in the mine to which they refer, any alteration in or addition to the same, or the substitution of other rules therefor, or for any of them.

- (1.) If the owner or agent object to any such alteration or addition or substituted rules, he may within fourteen days after receipt of the same give notice thereof to the Minister.
- (2.) If the miners object to the special rules they shall give notice of such objection to the Inspector and also to the owner or agent within one month after such rules shall be hung up as aforesaid, or, if they object to the alterations proposed by the Minister, they shall give him notice of such objection within fourteen days after the receipt thereof, and thereupon the parties interested may concur in the appointment of a single arbitrator, or, failing such concurrence, each party on the request of the other shall appoint an arbitrator, who shall not be interested or employed in such mine (and if there be only two arbitrators they shall, before entering upon the reference, appoint by writing under their hand an umpire), to determine the matter in difference and to decide what special rules shall be established in the mine.

Minister may propose new special rules or amendment.

29. The Minister may from time to time propose in writing to the owner, agent, or manager of the mine any new special rules, or any amendment to the special rules; and the provisions of this Act with respect to a proposal of the Minister for modifying the special rules transmitted by the owner, agent, or manager of a mine shall apply to all such new special rules and amendments in like manner as near as may be as they apply to such proposal.

The provisions contained in sections twenty-seven and twenty-eight shall apply to and be followed in respect of any proposal to amend special rules.

30. For the purpose of making known the special rules and the provisions of this Act to all persons employed in or about each mine to which this Act applies, an abstract of the Act, supplied on the application of the owner, agent, or manager of the mine by the Inspector on behalf of the Governor, and an entire copy of the special rules, shall be published as follows:—

Publication of special rules and provisions of Act.

- (1.) The owner, agent, or manager of such mine shall cause such abstract and rules, with the name and address of the Inspector, and the name of the owner or agent, and of the manager, appended thereto, to be posted up in legible characters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch.
- (2.) The owner, agent, or manager shall supply a printed copy of the abstract and the special rules gratis to each person employed in or about the mine who applies for such copy at the office at which the persons immediately employed by such owner, agent, or manager, are paid.
- (3.) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.

31. The special rules which at the commencement of this Act are in force in any mine under any Act hereby repealed shall continue to be the special rules in such mine until substituted by rules established under this Act.

Saving of existing special rules.

32. Every person who pulls down, injures, or defaces any proposed special rules, abstract, or special rules when posted up in pursuance of the provisions of this Act with respect to special rules, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

Penalty for destroying or defacing rules when posted.

33. An Inspector under this Act shall, when required, certify a copy, which is shown to his satisfaction to be a true copy, of any special rules which for the time being are established under this Act in any mine; and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules, and of the fact that they are established under this Act, and have been signed by an Inspector.

Special rules certified by Inspector to be evidence.

34. If the owner, agent, or manager of any mine makes any false statement with respect to the posting up of the rules, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the local Inspector, for the approval of the Governor, the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means, by enforcing to the best of his power the provisions of this section, to secure the transmission of such rules.

False statement by owner, agent, or manager as to posting up rules, deemed an offence.

35. Within one year and six months after commencing the working of any bords, stalls, or longwall workings in any mine; there shall be made and completed at least two separate and distinct openings to the day or surface from such mine, intercommunicating

Openings in mines to be provided.

with each other, by means of either of which openings all persons employed in the mine may at all times whatsoever pass in or out.

Penalty.

And the owner of any mine wherein such two openings shall not be completed as aforesaid shall be liable to a penalty not exceeding fifty pounds for every month during which the same shall remain incomplete.

Not to apply if not more than ten persons employed.

But this provision shall not apply so long as not more than ten persons are employed below ground at any one time in the whole of the different seams in connection with each outlet in such mine or working.

In any mine wherein such bords, stalls, or longwall workings have been commenced before the passing of this Act, and without a second opening as aforesaid, the same shall be completed at or before the termination of the year one thousand eight hundred and eighty-seven.

No liability to be incurred in making second shaft.

36. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Shafts with vertical or overhanging ladders to have platforms.

37. In every case where vertical or overhanging ladders are used in connection with the shaft of any mine, securely fixed platforms shall be constructed at intervals of not more than thirty feet from each other in such shaft, and such ladders shall have sufficient spaces for foot-holds of not less than six inches; but in no case shall new vertical or overhanging ladders be constructed either in substitution for old ones or otherwise.

Every person who contravenes or does not comply with this section within six months after the commencement of this Act shall be guilty of an offence against this Act.

Persons employed in mines to satisfy themselves, and to report as to safety of mine.

38. Every person employed in or about any mine shall satisfy himself of the safety of any tubs, chains, tackle, windlass, ropes, or other appliances he may use before commencing and whilst at work, and in case of any defect or insecurity, he shall cease to use anything unsafe; and every such person who witnesses in or about any such mine any circumstance, matter, or thing which may be likely to produce therein danger of any kind, and every person who may be notified by any such person of any such circumstance, matter, or thing, shall notify the same to the person (if any) under whose immediate directions or control he may be, and every such person in sub-charge of and employed in mining operations in any part of a mine shall, on changing his shift, inform the person appointed to relieve him of the state of the workings in the part of the mine in which he has been employed, or otherwise he shall be guilty of an offence against this Act.

Inspector to make inquiry on complaint of miner.

39. Immediately upon any miner working in the mine making a complaint under this Act to any Inspector, it shall be the duty of such Inspector to make inquiry into the matter of such complaint, and to take such other steps as he may deem necessary to investigate the matter, and the name of the informant shall not be divulged by the Inspector.

Plans of mines to be kept.

40. The owner, agent, or manager of every mine where there are underground workings shall keep at the office at the mine an accurate

plan of the workings of such mine, made by a certificated manager, a duly qualified mining engineer or by a surveyor authorized as such by the Surveyor-General, showing the workings up to three months previously, and shall produce such plan at the mine to any Inspector under this Act, or to any other person duly authorized by the Minister, and shall, if requested by any such Inspector or other person, mark on such plan the progress of the workings of the mine up to the time of such production, and shall allow the Inspector to examine and take a copy or tracing thereof.

Penalty in default
or if plan incorrect.

- (1.) Every such copy or tracing shall be deposited with such person at such place as the Minister may appoint, and no copy or tracing thereof shall be furnished, nor information in relation thereto given, nor shall such plans or tracings be open to inspection, unless with the permission of the Minister.

If any officer shall without the consent of the Minister furnish any copy, tracing, or information, or shall allow any person to inspect any such plan or tracing, he shall be guilty of an offence against this Act.

- (2.) If the owner, agent, or manager of any mine fails to keep such plan as is prescribed by this section, or wilfully refuses to produce such plan or allow it to be examined or copied, or conceals any part of the workings of his mine, or produces an imperfect or inaccurate plan, he shall be guilty of an offence against this Act.

An Inspector may, by notice in writing (whether a penalty for such offence has or has not been inflicted), require the owner, agent, or manager to cause an accurate plan, such as is prescribed by this section, to be made within a reasonable time, at the expense of the owner of the mine, on a scale of not less than a scale of two chains to one inch, or on such other scale as the plan then used in the mine is constructed on.

If the owner, agent, or manager fail, within twenty days or such further time as may be shown to be necessary after the requisition of the Inspector, to make such plan, or cause it to be made, he shall be guilty of an offence against this Act.

- (3.) If the Inspector have reason to think that any plan produced to him as aforesaid is incorrect he shall report the same to the Minister, who, if he thinks fit, may cause a check survey to be made, and if thereupon the plan aforesaid prove to be incorrect in any material respect, the owner, agent, or manager of the mine in which the said check survey is made shall be liable to pay all costs and charges for making such check survey or in connection therewith, and such costs and charges may be recovered as a debt due to the Crown.
- (4.) The Inspector may at any time by a written notice exempt any mine wherein altogether not more than seven men are employed from the operations of this section, and therefore the provisions of this section shall not apply in respect to such mine until the Inspector thinks fit to withdraw

such exemption for sufficient reasons, which he is hereby authorized to do.

Plans of abandoned mines to be sent to Minister.

41. Where any mine is abandoned, the owner of such mine at the time of such abandonment shall, within three months after such abandonment, send to the Minister an accurate plan on a scale of not less than a scale of two chains to one inch, or on such other scale as the plan used in the mine at the time of such abandonment is constructed on, showing the boundaries of the workings of such mine up to the time of the abandonment, with the view of its being preserved under care of the Minister.

Every person who fails to comply with this section shall be guilty of an offence against this Act.

Notice to be given of abandonment or opening of mine.

42. When any mine is abandoned, or the working thereof discontinued, or after any abandonment or discontinuance for more than two months the working thereof is recommenced, or when any workings are commenced for opening a new mine, the owner or agent shall give notice thereof in writing to the Inspector within one month after such abandonment, discontinuance, recommencement, or commencement.

In every case of abandonment or discontinuance the mine shall be and be kept securely fenced by the owner or agent; and all trial pits shall be fenced and kept secure by the owner of the land on which such trial pits are sunk.

Powers of Inspectors.

43. Every Inspector under this Act shall have power to do all or any of the following things, namely,—

- (1.) To make from time to time such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with;
- (2.) To enter, inspect, and examine any mine and every part thereof at all reasonable times, by day and night, but so as not to impede or obstruct the working of the said mine;
- (3.) To examine into and make inquiry respecting the state and condition of any mine or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto;
- (4.) To exercise such other powers as may be necessary for carrying this Act into effect.

Inspector to give notice to owner of causes of danger not provided for by rules.

44. If in any respect (which is not provided against by any express provision of this Act or by any special rule) any Inspector find any mine or any part thereof, or any matter, thing, or practice in or connected with any such mine to be dangerous or defective, so, as in his opinion, to threaten or tend to the bodily injury of any person, such Inspector may give notice in writing thereof to the owner or agent of the mine, and shall state in such notice the particulars in which he considers such mine or any part thereof, or any matter, thing, or practice to be dangerous or defective, and require the same to be remedied, and unless the same be forthwith remedied the Inspector shall also report the same to the Minister.

45. If the owner or agent of the mine—

- (1.) Objects to remedy the matter complained of in the notice he may, within seven days after the receipt of such notice, send his objection in writing, stating the grounds thereof to the Minister, and shall also send a copy of the same to the Inspector, who shall report on the same to the Minister, and thereupon the matter shall be determined by arbitration in manner provided by this Act in relation to the special rules, and the date of the receipt of such objection shall be deemed to be the date of the reference ;
- (2.) Fail to comply either with the requisition of the notice given by the Inspector, when no objection is sent within the time aforesaid, or with the award made on arbitration within twenty days after the receipt of such notice, or the making of the award (as the case may be), he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of such offence.

Failure by owner to comply with notice of danger an offence against Act.

The Court, if satisfied that the owner or agent has taken active measures for complying with the notice or award, but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before it for punishing such offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

No persons shall be precluded by any agreement from doing such acts as may be necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture for doing such acts.

46. Every person who contravenes or does not comply with any of the provisions of this Act, or who is guilty of negligence by which any person is injured or killed either by himself, his agent, or servant, shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding, if he is the owner, mining manager, or underground manager, or person in charge of or giving orders or directions relating to the carrying on of any mining operations in any mine, fifty pounds, and if he is any other person ten pounds for each offence; and further, if the underground manager is shown to have been guilty of carelessness or negligence, his certificate may be suspended for such time as the Minister shall think fit, or cancelled by the Minister.

Person committing breach of Act by which any person injured or killed, deemed guilty of an offence.

47. Any accident occurring in a mine shall be *prima facie* evidence that such accident occurred through some negligence on the part of the owner.

Accident deemed evidence of neglect.

48. If any person employed in or about any mine suffer any injury in person or be killed owing to the non-observance in such mine of any of the provisions of this Act, such non-observance not being solely due to the negligence of the person so injured or killed, or owing in any way to the negligence of the owner of such mine, his agents or servants, the person so injured or his personal representatives, or the personal representatives of the person so killed, may recover from the owner compensation by way of damages as for a tort committed by such owner; and the amount of such compensation, with the costs of recovering the same when determined, shall consti-

Employer to compensate employé injured through non-observance of Act.

tute a charge on the mine and mining plant in or about which such person was so employed, and all charges arising under the provisions of this section shall as between themselves be paid rateably.

Such compensation may be recovered under the provisions of "The Deaths by Accident Compensation Act, 1880," or "The Employers' Liability Act, 1882," which shall respectively be applicable, according to the circumstances of each particular case; subject, however, that notice of injury having been sustained may be given under the last-mentioned Act at any time within three months from the occurrence of the accident causing the injury, instead of within six weeks as in the said Act mentioned.

Nothing in this section contained shall take away from any person any right to take proceedings in respect of a claim for compensation for injury or death by accident which he may have under any Act other than this, if he prefer to proceed under such Act, but in such case he shall forfeit any right he may have to take proceedings under this section.

In case of proceedings against manager burthen of proof to lie on defendant that he is not manager.

49. For the purpose of any proceeding taken under the provisions of this Act against any manager or person in charge of or giving orders or directions relating to the carrying on of any mining operations in a mine, the burthen shall lie on the defendant of proving he is not such manager or person.

In case of accident in mine, manager to report to Inspector, who is to further report to Minister.

50. The manager of every mine shall forthwith after the occurrence of any accident attended with serious injury to any person, give a written notice thereof to the Inspector, and also shall forthwith report the same by telegraph message to the Minister, and any manager who omits to give such notice shall be guilty of an offence against this Act.

Any portion of a mine where a serious accident occurs shall not be interfered with until inspected by the Inspector or some other person appointed by the Minister or coroner's jury unless with the view of saving life or preventing further injury.

Inspector to attend inquest.

51. Unless the Inspector or some person appointed by the Minister be present at an inquest holden upon the body of any person whose death may have been caused by any such accident, the Coroner shall adjourn the same, and by written notice delivered or sent four days at the least before holding the adjourned inquest give notice of the time and place of holding the same, but before such adjournment the Coroner may take evidence to identify the body and order the interment thereof. And the Inspector or other person authorized in that behalf shall be at liberty to examine or cross-examine any witness at any such inquest: Provided that if the accident has not occasioned more than one death, and notice of the inquest has been given by the Coroner not less than forty-eight hours before the time of holding the same, it shall not be imperative on the Coroner to adjourn such inquest if the majority of the jury think it unnecessary.

As to Coroners' inquests.

52. With respect to coroners' inquests on the bodies of any persons whose death may have been caused by accidents in mines, the following provision shall have effect, that is to say,—

Any person having a personal interest in or employed in or in the management of the mine in which the accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any

person disqualified under this provision, and it shall be the duty of the Coroner not to allow any such person to be sworn or sit on the jury; nevertheless whenever it is practicable one half the jurymen shall be miners.

53. If any question arise whether a mine is a coal mine to which this Act applies, such question shall be referred to the Minister, whose decision thereon shall be final. As to whether mine is coal mine or not.

MISCELLANEOUS.

54. Where, for the purpose of working any mine, it is required to carry any work on, or over, or under any private land, or to take any such land, or any part thereof, for mining works in connection with such mine, the Governor, on the application and at the proper cost and charges of the owner of the said mine, may take such land, or any part thereof, under "The Public Works Act, 1882," as for a public work within the meaning of such Act. Works on private lands.

All provisions of the said Act shall apply accordingly for the purpose, but the effect of the Proclamation taking the land shall be to vest such land in the applicant instead of in Her Majesty, and all proceedings after the aforesaid Proclamation in respect of compensation and otherwise in respect of complying with the said Act shall be had against the applicant who shall be deemed to be the respondent, and shall be liable in respect of such taking in the same manner and to the same extent as Her Majesty or the Minister for Public Works would be in respect of taking land for a Government work under the said Act.

55. Upon the affidavit of any person taken before any Justice of the Peace or solicitor of the Supreme Court, claiming to be legally or equitably interested in any mine, or in any land adjoining or near to any other mine that the owner of such last-mentioned mine is or is by the person making such affidavit believed to be encroaching upon such first-mentioned mine or land the Minister may, by writing under his hand, authorize the Inspector, together with a mining surveyor or experienced miner, to enter upon such last-mentioned mine or land for the purpose of ascertaining whether any such encroachment has been made, and, if so, the extent thereof. As to encroachment

(1.) Before granting such authority the Minister shall require the person making or lodging the affidavit to deposit such a sum of money not exceeding one hundred pounds as shall be necessary to cover the cost of such inspection.

(2.) The persons so authorized may thereupon enter on the mine or land described in such order, and descend any shaft or enter any mine, and for such purpose use the engines and other machinery ordinarily employed for that purpose by the persons whose shaft or mine shall be descended or entered, and make such plans and sections of the mine or land entered upon, and of any drives or other works therein as shall be necessary for the purpose aforesaid: And the owner or agent of the mine to be entered upon shall render all necessary assistance to the persons so authorized. Entry of adjoining mine.

- (3.) Every such Inspector, surveyor, or miner shall, before entering on such mine or land, make a statutory declaration before any person authorized to take the same that he will not (except as a witness in a Court of Justice or in reporting on same to the Minister), without the consent in writing of the owner of the mine or land to be entered upon, divulge, or cause to be divulged, to any person whomsoever any information obtained upon or by such entry, save only as to whether such owner is encroaching on such first-mentioned mine or land, and every person who shall act contrary to such declaration, and any owner or agent who shall refuse such assistance as shall be necessary to enable the persons authorized by the Minister to descend the shaft or enter and examine the mine shall forfeit and pay a sum not exceeding fifty pounds.
- (4.) If there be no encroachment the Minister may, out of the sum deposited as aforesaid, defray the cost of such inspection, and, if such owner or agent render such assistance as shall be necessary for the purposes aforesaid, may out of such sum award to such owner compensation for any loss or expense to which he may be put by reason of such inspection.

Arbitration.

56. In the event of any dispute arising between any miners and the owner or agent of any mine as to any general or special rules, or between the parties aforesaid and the Inspector as to the administration of the rules, or upon any matter within the scope of this Act (not being an offence against this Act) and not otherwise provided for, the matter in dispute may be referred to the arbitration of one or more arbitrators appointed by the parties on each side respectively, and an umpire to be appointed by such arbitrators.

- (1.) The determination of such arbitrator, or of such arbitrators, or arbitrators and umpire, or of the majority thereof (if there be more than two) shall be final, and the award may be made a rule of the Supreme Court.
- (2.) The costs of every arbitration under this Act shall be defrayed and paid as the arbitrators may award.

Conduct of arbitration.

For the purposes of such arbitration, the Minister shall, on behalf of the Governor, be deemed to be a party to such arbitration within the meaning of the following provisions, unless otherwise specially provided by this Act in any particular case:—

- (1.) If either party shall fail to appoint an arbitrator within twenty-one days after being requested in writing to do so by the other party, then the arbitrator appointed by the other party shall alone conduct the arbitration, and his decision shall be final and binding on both parties.
- (2.) If the said arbitrators shall fail to act in the matter when referred to them within fourteen days after their appointment, or shall fail to agree upon the matter referred to them within twenty-eight days of the same having been so referred, then the matter so referred shall be decided by an umpire to be appointed by the said arbitrators, whose decision shall be final and binding on both parties.

- (3.) Every such arbitration shall be carried on in the manner prescribed by "The Supreme Court Practice and Procedure Amendment Act, 1866," and be subject to such last-mentioned Act in the same manner as if the reference to such arbitration had been made by consent of parties under a deed.
- (4.) Each party shall pay his or its costs of such reference, and any costs incidental to the apportionment of an umpire shall be paid equally by the parties to the arbitration.
- (5.) Such arbitrators or umpire shall have all the powers vested in Commissioners by "The Commissioners' Powers Act, 1867."
- (6.) Whenever the Minister is a party to an arbitration each party shall appoint their own arbitrator, and a Judge of the Supreme Court, to be nominated by the Governor, shall be the umpire between the said arbitrators.

57. Every owner of a mine, where there is an accumulation of water, who shall wilfully or negligently permit any water to overflow or percolate into any adjoining mine to the injury thereof, or to the impeding of any working therein, shall be liable to pay to the owner of such adjoining mine a contribution towards the cost of draining the said last-mentioned mine, which shall be in proportion to the amount of water allowed to overflow or percolate into it, and such contribution, with costs, may be recovered by the owner of the said adjoining mine into which the water has been allowed to overflow or percolate, in any Court of competent jurisdiction.

Injury to adjoining mine by flood-water.

But no owner of any mine shall be entitled to claim or to recover any contribution as aforesaid under this section unless he shall have left a barrier of solid coal or unworked ground not less than thirty-three yards thick along the entire line of the boundary dividing his mine from any adjoining mine.

58. The Governor may from time to time, by order in Council, make, alter, or revoke regulations for all matters concerning the administration of this Act, and the conduct of officers and persons engaged therein, and for securing safety and the prevention of accidents, and among other things for,—

Power to make regulations.

- (1.) Prescribing terms and conditions for the issue of certificates of competency for the office of underground manager of a mine;
- (2.) Regulating the examinations to be held with respect to the necessary knowledge and requirements in working a mine for the purpose of ascertaining the fitness of any person applying for any such certificate;
- (3.) Appointing a Board of Examiners to conduct any such examination; or appointing any particular school or schools of mines or other educational establishments the certificates of examination whereof shall be accepted as sufficient for the purposes of this section.

Any Board appointed examiners as aforesaid may grant or refuse a certificate of competency on any grounds they may deem advisable.

59. Every Inspector shall, on or before the first day of April in every year, make a report in writing of his proceedings during the

Inspector to make annual report.

year ending on the preceding thirty-first day of December, and transmit the same to the Minister.

Annual returns by owners, &c., of mines.

60. On or before the first day of March in every year, the owner, agent, or manager of every mine shall send to the Inspector, on behalf of the Minister, a correct return for the preceding twelve months ending on the thirty-first day of December previous, specifying the quantity of coal or other mineral wrought in such mine, and the number of persons ordinarily employed in or about such mine below ground and above ground respectively.

The return shall be in such form as may be prescribed from time to time, and forms for the purpose of such returns shall be furnished on application to the Mines Department; and the Minister may publish the result of such returns.

Every owner, agent, or manager of a mine who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act.

Wages not to be paid at public-house, &c.

61. No wages or contract money shall be paid to any person employed in or about any mine to which this Act applies at or within any public-house, beer-shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto or occupied therewith.

Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with this section, shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager shall each personally be guilty of an offence against this Act, unless he prove that he had taken all reasonable means, by publishing, and to the best of his power enforcing, the provisions of this section, to prevent such contravention or non-compliance.

As to payment of persons employed in mines by weight or otherwise.

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

(1.) Nothing herein contained shall preclude the owner, agent, or manager of the mine from agreeing with the persons employed in such mine that deductions shall be made in respect of stones or materials other than mineral contracted to be gotten, which shall be sent out of the mine with such mineral, or in respect of any tubs, baskets, or hutches being improperly filled, in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined by the banksman or weigher and checkweigher (if there be one), or, in case of difference, by a third party to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the person employed in the mine on the other.

(2.) Where it is proved to the satisfaction of the Minister that by reason of any exigencies existing in the case of any mine or class of mines to which the foregoing provision in this

section applies, it is requisite or expedient that the persons employed in such mine or class of mines should not be paid by the weight of the mineral gotten by them, or that the beginning of such payment by weight should be postponed, such Minister may, if he think fit, by order exempt such mine or class of mines from the provisions of this section, either without condition or during the time and upon the conditions specified in the order, or postpone in such mine or class of mines the beginning of such payment by weight, and may from time to time revoke or alter any such order.

If any person contravenes or fails to comply with or permits any person to contravene or fail to comply with this section he shall be guilty of an offence against this Act, and in the event of any contravention of or non-compliance with this section by any person whomsoever the owner, agent, and manager shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means by publishing, and to the best of his power enforcing, the provisions of this section to prevent such contravention and non-compliance.

63. The persons who are employed in a mine to which this Act applies and are paid according to the weight of the mineral gotten by them may, at their own cost, station a person (in this Act referred to as "a check-weigher"), being a person employed at the said mine or any mine belonging to the same company or proprietor at the place appointed for the weighing of such mineral, in order to take an account of the weight thereof, and if in any mine reasonable facilities are not afforded to him for taking such account the owner and agent of such mine shall each be guilty of an offence against this Act. The check-weigher shall not be authorized in any way to impede or interrupt the working of the mine or to interfere with the weighing, but shall be authorized only to take such account as aforesaid, and his absence shall not be a reason for interrupting or delaying such weighing.

Appointment or removal of check-weigher on part of men.

If a check-weigher shall impede or interrupt the working of the mine, or interfere with the weighing, or otherwise misconduct himself, such owner or agent may complain to the nearest Resident Magistrate's Court, which, if it shall think fit, may call upon the check-weigher to show cause against his removal. Such Court shall hear the parties, and if it think that sufficient ground is shown to justify the removal of the check-weigher make a summary order for his removal, and he shall thereupon be removed. The Court may in every case make such order as to the cost of the proceedings as it thinks just.

64. If the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of the last-preceding section shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly.

Where persons employed to be paid by measure.

65. "The Weights and Measures Act, 1868," shall apply to the weights and machines used in or at any mine for weighing mineral, and the Inspector shall without unnecessarily impeding or interrupting the working of the mine inspect and examine in manner directed

Weights and Measures Act to apply.

by the said Act the weighing-machines and weights so used, or the measures or gauges used at or in such mines in lieu of weights.

Penalties for offences against general or special rules by owner or agent.

66. If any mine be worked, and through the default of the owner or agent thereof special rules have not been established for the same according to the provisions of this Act, or the general or special rules have not been hung up or affixed, or have not after obliteration or destruction been renewed or restored, or if any of such general or special rules which ought to have been observed by the owner or agent of such mine be neglected or wilfully violated by any such owner or agent, such person shall be liable to a penalty not exceeding twenty pounds; and also

In case the default or neglect be not remedied with all reasonable despatch, after notice in writing thereof given by the Inspector to the owner or agent of such mine, to a further penalty of one pound for every day during which the offence continues after such notice, or, in default of payment of any such penalty, to be imprisoned for any period not exceeding one month.

Penalty for offences against special rules by miners.

67. Every person, other than as mentioned in the last-preceding section employed in or about any mine who neglects or wilfully violates any of the special rules established for such mine, shall for every such offence be liable to a penalty not exceeding five pounds, or, in default of payment, to be imprisoned for any period not exceeding one month.

Penalty for obstructing Inspectors.

68. Every person who wilfully obstructs any Inspector in the execution of this Act, and every owner, agent, or manager of any mine who refuses or neglects to make or produce as hereinbefore required a plan of the workings of the mine, or to furnish the means necessary for making any entry, inspection, examination, or inquiry under this Act, shall for every such offence be liable to a penalty not exceeding fifty pounds.

Defacing notices.

69. Every person who wilfully pulls down, injures, or defaces any notice hung up or affixed as required by this Act, shall be guilty of an offence against this Act.

What shall be offences against Act.

70. Every person employed in or about a mine other than an owner, agent, or manager, who is guilty of an act or omission which in the case of an owner, agent, or manager would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

General penalty for offences against Act.

71. Every person who is guilty of an offence against this Act shall, when no other penalty is fixed by this Act, be liable to a penalty not exceeding, if he is an owner, agent, or manager, fifty pounds, and if he is any other person ten pounds, for each offence; and, if the Inspector has given written notice of any such offence, to a further penalty not exceeding five pounds for every day after such notice that such offence continues to be committed.

Penalty for offences not expressly provided for.

72. Every person who wilfully violates or neglects any provision of this Act, or any general or special rule established hereby or hereunder, for the violation or neglect of which no penalty is hereby expressly imposed, shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalties how recoverable, and to be applied.

73. All penalties imposed by this Act may be recovered summarily before two or more Justices of the Peace under "The

Justices of the Peace Act, 1882," at the suit of the Inspector or other officer authorized in that behalf by the Minister.

All penalties imposed by this Act shall, when recovered, be paid to the Public Account, and shall except as mentioned in the next succeeding section be carried to and form part of the Consolidated Fund.

74. The Governor may direct—

- (1.) That any penalty imposed for neglecting to send or cause to be sent, notice of any accident as required by this Act, or for any offence against this Act, which may have occasioned loss of life or personal injury, shall be paid to any relative, or among any relatives of the deceased person, or to the injured person, not being a person who occasioned or contributed to the accident or committed the offence; or
- (2.) That any portion of any penalty recovered under this Act shall be paid to the person giving the information whereby such penalty was recovered.

Governor may direct how penalty may be paid.

75. The description of any offence under this Act in the words of this Act shall be sufficient in law.

As to description of offence in legal proceedings.

The owner, agent, or manager may, if he think fit, be sworn and examined as an ordinary witness in the case where he is charged in respect of any contravention or non-compliance by another person.

The Court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

76. Except as hereinbefore mentioned in section fifty all notices under this Act may be in writing or print, or partly in writing and partly in print, and all notices and documents required by this Act to be served or sent by or to the Minister or an Inspector may be either delivered personally or served and sent by post as a registered letter, and, if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to produce the receipt for the registration of such letter.

Notices may be served by post.

77. All costs and expenses incident to carrying the provisions of this Act into effect shall be defrayed out of moneys to be from time to time appropriated by the General Assembly for the purpose.

Cost of working Act, how defrayed.