



Title.	ANALYSIS
1. Short Title.	6. Provisions as to safety rules in quarries.
2. Amendments to definitions of terms.	7. As to inspection of quarry after accident.
3. In certain cases quarry manager required to have additional qualifications.	8. Amendments consequential on abolition of Coroner's jury.
4. Quarry manager's certificates.	9. Particulars of any accident rendering workmen unfit for work to be furnished to Inspector.
5. New sections inserted:	10. As to dangerous conditions in quarry.
15. Formal investigations.	11. Certain persons may be required to furnish information.
15A. Assessors.	12. Extension of regulation making provisions.
15B. Conduct of Court of Inquiry.	
15C. Finding of Court of Inquiry.	
15D. Appeal from decision of Court of Inquiry.	
15E. Procedure where certificate cancelled or suspended.	

1954, No. 47

AN ACT to amend the Quarries Act 1944.

Title.

[29 September 1954]

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

1. This Act may be cited as the Quarries Amendment Act 1954, and shall be read together with and deemed part of the Quarries Act 1944 (hereinafter referred to as the principal Act).

Short Title.

1944, No. 13

Amendments to  
definitions of  
terms.

2. (1) Subsection one of section two of the principal Act is hereby amended by repealing the definition of the term "crushing plant", and substituting the following definitions:

" 'Crushing plant' means any works, machinery, or plant used for the crushing, screening, or pulverizing of material taken from a quarry or of stone or shingle; and includes any tramway, belt, chute, or other similar appliance used in the conveyance of any such material, stone, or shingle to a crushing plant, and any motor vehicle that is so used otherwise than on a road or street; but does not include any works, machinery, or plant used in connection with the manufacture of cement:

" 'Court of Inquiry' means a Court of Inquiry constituted under section fifteen of this Act:

" 'Formal investigation' means a formal investigation directed by the Minister under section fifteen of this Act."

(2) Subsection one of section two of the principal Act is hereby further amended as follows:

(a) By inserting in the definition of the term "quarry", as substituted by paragraph (a) of subsection one of section two of the Quarries Amendment Act 1951, after the words "and includes", the words "an excavation for the purposes of the construction of any works for the generation of electricity or for the purposes of the construction of a dam for the supply of water for the use of the public, a tunnel,":

(b) By omitting from paragraph (d) of the said definition the words "water, or electricity", and substituting the words "or the reticulation of water or electricity".

(3) Subsection one of section two of the principal Act is hereby further amended by inserting, after the said definition of the term "quarry", the following definition:

" 'Quarry manager's certificate' includes a tunnel manager's certificate and a quarry manager's surface certificate:".

(4) Subsection one of section two of the principal Act is hereby further amended by adding the following definition:

“ ‘ Tunnel ’ means any adit, drive, shaft, winze, rise, or other underground working.”

(5) Paragraph (a) of subsection one of section two of the Factories Act 1946 is hereby amended by inserting, after the words “ does not include ”, the words “ any crushing plant within the meaning of the Quarries Act 1944 ”. 1946, No. 43

3. The principal Act is hereby amended by inserting, after section twelve, the following section: In certain cases quarry manager required to have additional qualifications.

“ 12A. (1) Notwithstanding anything in this Act, if in the opinion of an Inspector conditions in any particular quarry are such as to require special knowledge or skill on the part of the manager, the Inspector may, by notice in writing addressed to the occupier of the quarry and delivered at the quarry, or forwarded by telegraph or registered letter, require the appointment, within such period as may be specified in the notice, of a manager for that quarry having a quarry manager’s certificate and such qualifications and experience additional to the qualifications and experience required for a quarry manager’s certificate as may be specified in the notice.

“(2) The provisions of sections eight to twelve of this Act shall, as from the expiry of the period specified in the notice, apply to any quarry to which the notice relates in all respects as if the manager required for the quarry were a person having a quarry manager’s certificate and the additional qualifications and experience specified in the notice.

“(3) Any notice given under this section may at any time in like manner be revoked.

“(4) The occupier of any quarry who has received a notice under subsection one of this section may, at any time before the expiration of the period specified in the notice, appeal to the Minister against any requisition of an Inspector contained in the notice, and the decision of the Minister shall be final.”

4. (1) The principal Act is hereby amended by repealing section thirteen, and substituting the following section: Quarry manager’s certificates.

“13. (1) No quarry manager’s surface certificate shall be granted to any person unless that person passes the prescribed examination and satisfies the Inspector—

“(a) That he has had in the aggregate at least two years’ experience in working at the face of a surface quarry, including the use of explosives in that work; or

“(b) That he has had in the aggregate at least one year’s experience in working at the face of a surface quarry, including the use of explosives in that work, and at least two years’ experience in working at the face of a coal mine, a metalliferous mine, or a tunnel; or

“(c) That he is the holder of a mine manager’s certificate under the Coal Mines Act 1925, or a mine manager’s certificate under the Mining Act 1926.

See Reprint  
of Statutes,  
Vol. V,  
pp. 843, 943

“(2) No tunnel manager’s certificate shall be granted to any person unless that person passes the prescribed examination and satisfies the Inspector—

“(a) That he has had in the aggregate at least three years’ experience in working at the face of a coal mine, a metalliferous mine, or a tunnel; or

“(b) That he is the holder of a mine manager’s certificate, an underviewer’s certificate, or a fireman deputy’s certificate under the Coal Mines Act 1925, or a mine manager’s certificate under the Mining Act 1926.

“(3) Where any period of working experience is prescribed in this section, at least twelve months of the total period prescribed shall have occurred in the three years immediately preceding the date of the application to be examined.

“(4) Any person may make application to an Inspector to be examined under this section, and shall forward with his application the prescribed fee.

“(5) If any person applying to be examined under this section fails to pass the examination, he may, without payment of any further fee, be examined again at such time as may be fixed in that behalf by the Inspector.

“(6) Notwithstanding anything in this Act, the Inspector may refuse a certificate on such grounds as he thinks fit:

“ Provided that any person to whom a certificate has been refused on any ground other than that of failure to pass the prescribed examination may, within fourteen days after his having received notice of the refusal, appeal to the Minister, whose decision shall be final.

“(7) A certificate under this section shall not be granted to any person under the age of twenty-three years.”

(2) Subsection two of section nine of the principal Act, as substituted by section eight of the Quarries Amendment Act 1951, is hereby amended by omitting the words “quarry manager’s underground certificate”, and substituting the words “tunnel manager’s certificate”. 1951, No. 83

(3) Section ten of the Quarries Amendment Act 1951 is hereby repealed.

5. The principal Act is hereby amended by repealing section fifteen, and substituting the following sections: New sections inserted.

“ 15. (1) Where—

“(a) An accident occurring in or about any quarry or in connection with any quarrying operations results directly or indirectly in the death or serious bodily injury of any person; or

“(b) Any person holding a quarry manager’s certificate has been convicted of an offence against this Act or, in the opinion of an Inspector, is unfit to continue to hold the certificate by reason of incompetency, or negligence, or misconduct in the performance of duties under this Act,—

the Inspector shall report the circumstances to the Minister, and, if the Minister so directs, a formal investigation shall be held. Formal investigations.

“(2) The formal investigation shall be held before a Court of Inquiry consisting of a Magistrate appointed by the Minister.

“(3) The formal investigation shall be conducted in such a manner as to afford any person into whose conduct inquiry is made the opportunity of attending

the inquiry by himself, his counsel, or agent, and of being sworn and examined as an ordinary witness, and of making a defence.

“(4) For the purposes of a formal investigation the Court of Inquiry shall have the powers of a Magistrate’s Court in any case where jurisdiction is conferred on a Magistrate or one or more Justices in relation to any matter in respect of which proceedings may be commenced by an information or complaint under the Justices of the Peace Act 1927.

See Reprint  
of Statutes,  
Vol. II, p. 351

“(5) Subject to the provisions of this Act and of any regulations thereunder, the Court of Inquiry may regulate its own procedure.

Assessors.

“15A. (1) Where a formal investigation involves, or appears likely to involve, any question as to the cancellation or suspension of a quarry manager’s certificate, the Court of Inquiry shall hold the investigation with the assistance of not less than two Assessors, one or more of whom shall be appointed by the Minister, and a like number shall be appointed by the holder of the quarry manager’s certificate in manner prescribed by regulations under this Act. In any other case the Court of Inquiry shall, if the Minister so directs, hold the investigation with the assistance of such one or more Assessors as the Minister may appoint.

“(2) No person shall be appointed to act as an Assessor unless he is—

“(a) A mining engineer, or the holder of a first class mine manager’s certificate, or the holder of a quarry manager’s certificate; or

“(b) A person having other special skill or knowledge in relation to quarrying operations.

“(3) There shall be paid out of money appropriated by Parliament for the purpose to any Assessors appointed under this section remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such Assessors were members of a statutory Board within the meaning of that Act.

1951, No. 79

“ 15B. (1) The management of any case before a Court of Inquiry shall be superintended by the Inspector or by such person as the Minister may appoint, and the Inspector, or the person so appointed, shall render to the Court of Inquiry such assistance as is in his power. Conduct of Court of Inquiry.

“(2) Where a formal investigation relates to an accident in a quarry, the following persons shall be entitled to be present at the Court of Inquiry, to require the attendance of any witness, to give evidence, and to examine any witness either personally or by counsel:

“(a) An Inspector:

“(b) Any person injured as a result of the accident:

“(c) Any relative of any person whose death may have been caused by the accident:

“(d) The occupier of the quarry in which the accident occurred:

“(e) The employer of the occupier where the occupier is a contractor of an employer:

“(f) An officer or a representative of the workers' union to which any person injured, or any person whose death may have been caused, belonged at the time of the accident.

“(3) Where the formal investigation involves or appears likely to involve any question as to the cancellation or suspension of a quarry manager's certificate, the Court of Inquiry may require the holder of the certificate to deliver up the certificate.

“ 15c. (1) If the Court of Inquiry finds—

“(a) That the holder of a quarry manager's certificate is incompetent, or has been guilty of negligence or of misconduct in the performance of his duties under this Act; or

“(b) That the accident in respect of which the formal investigation is held was caused directly or indirectly by the failure of the holder of a quarry manager's certificate to observe any of the provisions of this Act, or any regulations made thereunder or by reason of his negligence,—

it may cancel, or suspend for such period as it thinks fit, any certificate issued to that person under this Act; or, if it considers that the facts do not warrant the cancellation or suspension of the certificate, it may fine that person an amount not exceeding fifty pounds.

Finding of Court of Inquiry.

“(2) Where the formal investigation involves a question as to the cancellation or suspension of a quarry manager’s certificate, the Court of Inquiry shall, at the conclusion of the case or so soon afterwards as possible, state in open Court the decision to which it has come with respect to the cancellation or suspension of the certificate, and shall then either return, cancel, or suspend the certificate according to its decision on the case.

“(3) The Court of Inquiry, after conducting the formal investigation, shall make to the Minister a full report containing a complete statement of all the circumstances relevant to the subject matter of the investigation, and of the opinion of the Court thereon, accompanied by such reports of or extracts from the evidence and such observations as the Court thinks fit, and if the Court determines to cancel or suspend any certificate it shall send the certificate cancelled or suspended to the Minister with the report.

“(4) Each Assessor shall either sign the report or state in writing to the Minister his dissent therefrom with the reasons for his dissent.

“(5) The Court of Inquiry may make such order as it thinks fit respecting the costs of the formal investigation or any part thereof, and any such order may be enforced as if it were an order for costs under Part II of the Justices of the Peace Act 1927.

“(6) The Minister may, if in any case he thinks fit, pay the costs of any such investigation.

“15D. In any case where the formal investigation has involved a question as to the cancellation or suspension of a quarry manager’s certificate, there shall be the like right of appeal to the Supreme Court against any order of the Court of Inquiry as if it were an order of a Warden under Part IX of the Mining Act 1926.

“15E. (1) Where a quarry manager’s certificate is cancelled or suspended by the Court of Inquiry under section fifteen c of this Act, the Inspector shall cause a record of the cancellation or suspension to be made in the register of holders of quarry manager’s certificates.

See Reprint  
of Statutes,  
Vol. II, p. 365

Appeal from  
decision of  
Court of  
Inquiry.

See Reprint  
of Statutes,  
Vol. V, p. 1112

Procedure  
where  
certificate  
cancelled or  
suspended.

“(2) Where the certificate of any person is suspended under this section, that person shall, during the period of the suspension, be deemed for the purposes of this Act not to be the holder of a certificate.”

6. (1) Section sixteen of the principal Act is hereby amended by adding to paragraph (a) of subsection one the following subparagraph: Provisions as to safety rules in quarries.

“(xiv) Where explosives are used in tunnelling operations, the priming charges shall be prepared outside the portal of the tunnel in a building provided for the purpose and of a design approved by an Inspector, the priming charges shall be carried to the face of the tunnel in a closed container or a locked powder car of a design approved by an Inspector, and the distribution of the explosives and priming charges shall be under the supervision of a person appointed by the person in charge of the operations.”

(2) Section sixteen of the principal Act is hereby further amended by inserting, after subsection one, the following subsection:

“(1A) Where the occupier of a quarry considers that the observation of any of the rules prescribed in subsection one of this section would be impracticable and a modification of the rules would not affect the safe working of the quarry, he may apply to an Inspector for a modification of the rules in respect of the quarry, and the Inspector may grant or refuse the application or modify the rules in such manner as in the circumstances he thinks proper. Every such modification or variation shall be in writing signed by the Inspector, and a copy shall at all times be kept publicly exhibited in a conspicuous place in the quarry.”

7. Section seventeen of the principal Act is hereby amended by omitting from subsection four the words “ or by some other person appointed for the purpose by the Minister, or by a Coroner ”, and substituting the following proviso: As to inspection of quarry after accident.

“ Provided that where the accident occurs in a tunnel and no Inspector is immediately available to make an inspection, the inspection shall be made by a committee,

approved in that behalf by the Inspector, consisting of two persons, one representing the occupier and one representing the persons employed in the tunnel. Where any such inspection is carried out by a committee, the committee shall make a report in writing thereon to the Inspector, and no further work in that part of the tunnel where the accident occurred shall take place without the consent of both members of the Committee until that part has been inspected by an Inspector."

Amendments consequential on abolition of Coroner's jury.

8. Section eighteen of the principal Act is hereby amended as follows:

(a) By omitting from subsection four the words "sitting without a jury, he thinks it unnecessary so to adjourn, or if, where there is a jury, the majority of the jury think it unnecessary", and substituting the words "he thinks it unnecessary so to adjourn":

(b) By omitting from subsection six the words "or jury":

(c) By repealing subsection seven.

Particulars of any accident rendering workmen unfit for work to be furnished to Inspector.

9. Section nineteen of the principal Act is hereby amended by omitting from subsection one the words "for three days or more".

As to dangerous conditions in quarry.

10. Section twenty of the principal Act is hereby amended by inserting in subsection one, after the word "life", the words "or may lead to a condition dangerous to life".

Certain persons may be required to furnish information.

11. Section twenty-three of the principal Act is hereby amended by adding the following subsection:

"(4) The provisions of this section shall apply to the occupier or manager of any place other than a quarry where persons work in excavating material from the earth in all cases where an Inspector serves notice on any such occupier or manager that he is required to furnish the information referred to in subsection one of this section."

Extension of regulation making provisions.

12. Subsection two of section twenty-seven of the principal Act is hereby amended by adding the following paragraphs:

"(1) Providing for the appointment of shotfirers and for the qualifications required to be held by any person so appointed:

- “(m) Regulating the installation and use of electrical equipment in quarries:
  - “(n) Providing for the establishment and constitution of a Board of Examiners and prescribing the functions of any such Board:
  - “(o) Making provision in respect of the conduct of formal investigations and of appeals from Courts of Inquiry.”
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