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Mr. Wason.

# Regulation of Mines.

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## A BILL INTITULED

## AN ACT to provide for the Regulation and Inspection of Mines.

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

Short Title.

1. The Short Title of this Act shall be "The Regulation of Mines Act, 1878."

Repeal.

2. The Regulation of Mines Act, 1874," is hereby repealed.

Interpretation of terms.

3. For the purposes of this Act the following terms in inverted commas shall, unless the context otherwise indicate, bear the meanings set against them respectively:—

"Mine."

(1.) "Mine" and "coal mine," any claim, pit, place, shaft, drive, level, or other excavation, drift, gutter, lead, vein, lode, reef, wherein or whereby is or shall be carried on any operation for or in connection with the purpose of obtaining any metal or mineral by any mode or method of stacking or otherwise storing any substance as containing any metal or mineral, and every mine, whether in actual work, or discontinued, or exhausted, or abandoned, and every shaft, level, and inclined plane in the course of being made or driven for commencing or opening any such mine, and all works belonging thereto respectively.

"Plan."

(2.) "Plan" includes a map and section, and a correct copy or tracing of any original plan as so defined.

"Owner."

(3.) "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 regulation of mining, 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.

- 5 (4.) "Agent" and "manager," any person having for the "Agent" and time being, on behalf of the owner, the care and direction "manager." of the mine.
- (5.) "The Inspector," chief Inspector of Mines for New "Inspector." Zealand.
- 10 (6.) "Machinery," steam and other engines, boilers, furnaces, "Machinery." stampers, winding and pumping gear, chains, trucks, tramways, tackle, blocks, ropes, tools, and all appliances of whatsoever kind used in or about the mine.
- (7.) "Woman," a female of the age of sixteen years and "Woman." upwards.
- 15 (8.) "Child," a child under the age of thirteen years. "Child."
- (9.) "Young person," a person of the age of thirteen years and "Young person." under the age of nineteen years.
- 20 (10.) "A week" shall be deemed to begin at midnight on "A week." Saturday night, and to end at midnight on the succeeding Saturday night.

## PART I.

## APPOINTMENT OF OFFICERS, ETC.

4. The Governor may from time to time appoint one or more fit persons to be Inspectors of Mines for the Colony of New Zealand, and such other officers as may be deemed necessary, and from time to time may remove any such person or persons from his or their office; and, in case of the death, resignation, or removal from office of any such Inspector or other officer aforesaid, another or others may appoint, as occasion shall require. The notification of every such appointment shall be published in the *New Zealand Gazette*.

5. No person who shall act or practise as a land agent, or as a manager, viewer, or agent, or mining engineer, or a valuer of lands, or arbitrator in any matters of dispute arising between owners of mines, or be otherwise employed in any way in any mine, shall be appointed or act as an Inspector of Mines under this Act.

## PART II.

## CERTIFICATED MANAGERS.

6. Every mine to which this Act applies 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, and shall send written notice to the Inspector of the district of the name and address of such manager.

Manager to hold certificate.

A person shall not be qualified to be a manager of a mine to which this Act applies unless he is for the time being registered as the holder of a certificate under this Act.

Penalty for non-appointment of manager.

7. If any mine to which this Act applies is worked for more than fourteen 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 worked :

Provided that—

(a.) The owner of such mine shall not be liable to any such penalty if he prove that he had taken all reasonable means, by the enforcement of this section, to prevent the mine being worked in contravention of this section ;

(b.) If for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of such mine may appoint any competent person not holding a certificate under this Act to be manager, for a period not exceeding two months, or such longer period as may elapse before such person has an opportunity of obtaining by examination a certificate under this Act, and shall send to the Inspector of the district a written notice of the name and address of such manager, and of the reason of his appointment ; and

(c.) A mine in which less than twenty persons are ordinarily employed below ground, or of which the average daily output does not exceed twenty-five tons, shall be exempt from the provisions of this section, unless the Inspector of the district, by notice in writing served on the owner or agent of such mine, requires the same to be under the control of a manager.

Examiners to be appointed.

8. For the purpose of granting in any part of New Zealand certificates of competency to managers of mines for the purposes of this Act, Examiners shall be appointed by the Civil Service Board.

Governor may make, &c., rules.

9. The Governor may from time to time make, alter, and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act, the number and remuneration of the Examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in the *First* Schedule to this Act.

Certificate of competency to be granted by Inspector.

10. The Inspector shall deliver to every applicant who is duly reported by the Civil Service Board to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct, such a certificate of competency as the case requires. The certificate shall be in such form as the Governor from time to time directs, and a register of the holders of such certificates shall be kept by such person and in such manner as the Governor from time to time directs.

Register to be kept.

Certificates of service to person previously acting as manager.

11. Certificates of service for the purposes of this Act shall be granted by the Inspector to every person who satisfies him either that before the passing of this Act he was acting, and has since that day acted, or that he has, at any time within five years before the passing of this Act, for a period of not less than twelve months, acted in the capacity of a manager of a mine, or such part of a mine as can under this Act be made a separate mine for the purposes of this Act.

How service certificate filled up.

12. Every such certificate of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered ; and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Governor may direct, not exceeding that mentioned in the *First* Schedule to this Act.

Certificate may be refused.

A certificate of service shall have the same effect for the purposes of this Act as a certificate of competency granted under this Act.

13. If at any time representation is made to the Inspector that any manager holding a certificate under this Act is, by reason of in-  
5 competency or gross negligence, unfit to discharge his duties, or has been convicted of an offence against this Act, the Inspector may, if he think fit, cause inquiry to be made into the conduct of such manager; and with respect to such inquiry the following provisions shall have effect:—

Inspector may cause inquiry into conduct of manager.

- 10 (1.) The inquiry shall be public, and shall be held at such place as the Governor may appoint, by such District Judge or other person or persons as may be directed by the Governor, and either alone or with the assistance of any Assessor or Assessors named by the Governor.
- 15 (2.) The Inspector shall, before the commencement of the inquiry, furnish to the manager a statement of the case upon which the inquiry is instituted.
- (3.) Some person appointed by the Court shall undertake the management of the case.
- 20 (4.) The manager may attend the inquiry by himself, his counsel, attorney, or agent, and may, if he think fit, be sworn and examined as an ordinary witness in the case.
- (5.) The persons appointed to hold the inquiry (in this Act referred to as "the Court") shall, upon the conclusion of the  
25 inquiry, send to the Governor a report containing a full statement of the case, and their opinion thereon, and such report of or extracts from the evidence as the Court think fit.
- (6.) The Court shall have power to cancel or suspend the certificate of the manager if they find that he is, by reason of  
30 incompetency or gross negligence, or of his having been convicted of an offence against this Act, unfit to discharge his duty.
- (7.) The Court may, if they think fit, require a manager to  
35 deliver up his certificate, and if any manager fail, without sufficient cause to the satisfaction of the Court, to comply with such requisition, he shall be liable to a penalty not exceeding *one hundred* pounds. The Court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore, cancel, or suspend the  
40 same, according to their judgment on the case.
- (8.) The Court shall have, for the purpose of the inquiry, all the powers of a Court of summary jurisdiction, and all the powers of the Inspector under this Act.
- 45 (9.) The Court may also, by summons under their hands, require the attendance of all such persons as they think fit to call before them and examine for the purpose of the inquiry, and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on  
50 subpoena before a Court of record; and, in case of dispute as to the amount to be allowed, the same shall be referred by the Court to a Master of one of the superior Courts, who, on request under the hands of the members of the Court, shall ascertain and certify the proper amount of  
55 such expenses.

14. The Court may make such order as they think fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit of the same, be enforced by any Court of summary jurisdiction as if such cost and expenses  
60 were a penalty imposed by such Court.

Order of Court as to expenses of inquiry.

Remuneration to members of Court.

15. The Governor may, if he think fit, pay to the members of the Court of inquiry, including any Assessors, such remuneration as he may appoint.

Moneys to be appropriated by Parliament.

16. Any costs and expenses ordered by the Court to be paid by the Inspector, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament. 5

Cancellation of certificate to be entered in register.

17. Where a certificate of a manager is cancelled or suspended in pursuance of this Act, the Inspector shall cause such cancellation or suspension to be recorded in the register of holders of certificates.

Governor may renew certificate.

The Governor may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act. 10

Lost certificate how to be made good.

18. Whenever any person proves to the satisfaction of the Inspector that he has, without fault on his part, lost or been deprived of any certificate previously granted to him under this Act, such person shall, upon payment of such fee (if any) as the Inspector may direct, but not exceeding the fee specified in the *First* Schedule to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled to be made out and certified by the person who keeps the register, and delivered to the applicant, and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate. 15

Expenses of Inspector how to be defrayed.

19. All expenses incurred by the Inspector with the concurrence of the Governor in carrying into effect the provisions of this Act with respect to certificates of competency or service, shall be defrayed out of moneys provided by Parliament. 25

Fees how to be dealt with.

20. All fees payable by the applicants for examination for, or for a copy of, a certificate under this Act shall be paid into the receipt of the Receiver-General, in such manner as the Governor may from time to time direct. 30

What to constitute offences under Act.

21. Every person who commits any of the following offences, that is to say,—

- (1.) Forges, or counterfeits, or knowingly makes any false statement in any certificate of competency or service under this Act, or any official copy of such certificate; or 35
- (2.) Knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement; or
- (3.) For the purpose of obtaining, for himself or any other person, employment as a certificated manager, or the grant, renewal, or restoration of any certificate under this Act, or a copy thereof, either 40
  - (a.) makes or gives any declaration, representation, statement, or evidence which is false in any particular, or 45
  - (b.) knowingly utters, produces, or makes use of any such declaration, representation, statement, or evidence, or any document containing the same,

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for a term not exceeding *two* years, with or without hard labour. 50

### PART III.

#### EMPLOYMENT OF WOMEN, YOUNG PERSONS, AND CHILDREN.

Employment of boys in mines.

22. No boy under the age of thirteen years, and no woman or girl of any age, shall be employed, or allowed to be for the purpose of employment, in any mine below ground. 55

A male young person under the age of sixteen years shall not be employed in, or allowed to be for the purpose of employment in, any mine below ground for more than forty-four hours in any one week, or more than eight hours in any one day, or otherwise than in accordance with the provisions hereinafter contained.

Of male young persons.

23. With respect to women, young persons, and children employed above ground the following provisions shall have effect:—

Employment of women and children.

- (1.) No child under the age of ten years shall be so employed.
- (2.) No woman, young person, or child shall be so employed between the hours of seven at night and six on the following morning, or on Sunday, or after two o'clock on Saturday afternoon.
- (3.) Every child employed in any colliery shall attend school for at least twenty hours in every two weeks during which such child is so employed.
- (4.) The immediate employer of a child, who has employed such child for any time amounting in the whole to not less than fourteen days, shall, on Monday in every week, during the employment of such child, obtain from the principal teacher of some school a certificate that the child so employed has, in manner required by this Act, attended school during the preceding week, if attendance at school was so required during that week.
- (5.) The certificate may be in such form as the Governor may from time to time prescribe.
- (6.) Every person who forges or counterfeits any certificate required by this section, or gives or signs any such certificate falsely, or wilfully makes use of any forged, counterfeit, or false certificate, shall be liable, on conviction, to imprisonment for a period not exceeding three months, with or without hard labour.
- (7.) The parent, guardian, or person having the custody of or control over any such child, shall cause such child to attend school in accordance with the provisions of this Act.

Every such parent, guardian, or person who wilfully fails to act in conformity with this section, shall be liable to a penalty of not more than *five* pounds for each offence.

Provided that the non-attendance of any child at school shall be excused—

- (1.) For any time during which such child is certified by the principal teacher of the school to have been prevented from attendance by sickness, or other unavoidable cause;
- (2.) For any time during which the school is closed for the customary holidays, or some other temporary cause; and
- (3.) For any time during which there is no school which the child can attend within two miles (measured according to the nearest practicable road) from the residence of such child, or the mine in which he works.

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 boys under the age of sixteen years who are employed in the mine below ground, and of all women, young persons, and children employed above ground, in connection with the mine, and a memorandum of the certificate of the school attendance of such children, obtained in pursuance of this Act, 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.

Register to be kept.

25. When there is a shaft or an inclined plane or level in any mine to which this Act applies, whether for the purpose of an entrance

As to employment under eighteen about engine.

to such mine or of a communication from one part to another part of such mine, and persons are taken up and down or along such shaft, plane, or level by means of any engine, windlass, or gin driven or worked by steam or any mechanical power, or by an animal, or by manual labour, a person shall not be allowed to have charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith, unless he is a male of at least eighteen years of age. 5

Where the engine, windlass, or gin is worked by an animal, the person under whose direction the driver of the animal acts shall, for the purposes of this section, be deemed to be the person in charge of the engine, windlass, or gin, but such driver shall not be under twelve years of age. 10

**Penalty for employment of persons in contravention of provisions of this Act.**

26. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provisions of this Act with respect to the employment of women, young persons, or children, or to the attendance of children at school, or to the register of women, young persons, or children, or to the employment of persons about any engine, windlass, or gin, he shall be guilty of an offence against this Act; and, in case of any such contravention or non-compliance 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 Act, to prevent such contravention or non-compliance. 15  
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If it appear that a child or young person, or a person employed about an engine, windlass, or gin was employed on the representation of his parent or guardian that he was at 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. 30  
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#### PART IV.

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##### POWERS AND DUTIES OF INSPECTORS.

**Duties of Inspectors.**

27. It shall be the duty of the Inspectors appointed under this Act, with the aid of such other officers as aforesaid, to ascertain the state and condition of all mines and collieries, and to obtain plans of all workings thereof, and reports of all accidents therein, and other matters of importance connected therewith, and especially of every breach of any of the provisions of this Act in relation thereto, and also touching every discovery relating to the discovery of metals coal or other minerals on any Crown lands, and from time to time as they may deem needful or be required by the Governor to report to him all such matters. 40  
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**Owners to produce plans.**

28. On the occasion of any examination or inspection of a mine the owner, agent, or manager shall produce to the Inspector, or to any other person duly authorized by the Inspector, an accurate plan of the workings thereof; and, in default of such production, or if the Inspector or such other authorized person finds that any part of any plan is withheld, or any part of the workings of the mine is concealed from his inspection, or that any plan produced is imperfect or inaccurate, he may require an accurate plan of the actual workings of such mine to be made within a reasonable time, by and at the expense of the owner, on a scale of not less than two chains to the inch. And every such plan as aforesaid shall show the workings of the mine 50  
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up to within six months of the time of the inspection, and the owner, agent, or manager shall, if required by such Inspector or other authorized person, cause to be marked on such plan the progress of the workings of the mine up to the time of such inspection, and shall

5 also permit the Inspector to take a copy or tracing thereof:

Provided that no Inspector shall furnish a copy of any such plan, or permit the same to be open to public inspection.

29. It shall be lawful for the Inspector of the district to enter, inspect, and examine any mine to which this Act applies, at all reasonable times, by day or by night, but so as not to impede or obstruct the working of such mine, and to make inquiry into the state and condition thereof, or the works and machinery, and the ventilation and drainage thereof, and the mode of lighting or using lights therein, and into all matters connected with or relating to the safety of the persons employed in or about the same, and especially to make inquiry whether the provisions of this Act are complied with in relation to such mine. And the owner, agent, or manager of such mine is hereby required to furnish all means necessary for such entry, inspection, examination, and inquiry.

Powers of Inspectors.

30. If any Inspector find, on any such inspection, examination, or inquiry, any mine, or the works or machinery thereof, or any matter or practice in or connected therewith, to be dangerous or defective, so as, in his opinion, to threaten or tend to the bodily injury of any person, he shall give notice in writing to the owner, agent, or manager of the particular grounds on which such Inspector is of opinion that such mine or any part thereof, or any portion of the particulars aforesaid, is dangerous or defective, and shall also report the same to the Governor: And, if the owner, agent, or manager object to remove or remedy the danger or defect which is the subject of such notice within fourteen days, such owner, agent, or manager may, after the receipt of such notice, send his objection in writing to the Inspector of the district on behalf of the Governor, and thereupon the matter shall be determined by arbitration in manner hereinafter provided; and the date of the receipt of such objection hereinafter mentioned shall be deemed to be the date of the reference.

Inspectors to give notice of matters not provided for by rules.

31. If the owner, agent, or manager fail to comply either with the requisition of the notice, where no objection is sent within the time aforesaid, or with the award made on arbitration, within fourteen days after the expiration of the time for objection or the time of 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 to comply with notice, &c., an offence against Act.

Provided that the Court before which any complaint or information for an offence against this Act shall be heard, if satisfied that the owner, agent, or manager 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 them for punishing such offence; and if the works are completed within a reasonable time no penalty shall be inflicted.

50 No person 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.

32. Such arbitration shall be conducted in the following manner, that is to say,—

Provisions for arbitration.

(1.) The parties to the arbitration are in this section deemed to be the owner, agent, or manager of the mine on the one hand, and the Inspector of Mines for the district within which such mine shall be situate (on behalf of the Governor) on the other.

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- (2.) Each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator.
- (3.) No person shall act as arbitrator or umpire under this Act who is employed in, or in the management of, or is interested in, the mine to which the arbitration relates. 5
- (4.) The appointment of an arbitrator under this section shall be in writing, and notice in writing of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of such other party. 10
- (5.) The death, removal, or other change in any of the parties shall not affect the proceeding under this section.
- (6.) If within the said fourteen days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference; and in such case the award of the single arbitrator shall be final. 15
- (7.) If before an award has been made, any arbitrator appointed by either party die or become incapable to act, or for seven days refuse or neglect to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place; and, if he fail to do so after seven days' notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matters in difference; and in such case the award of such single arbitrator shall be final. 20 25
- (8.) In either of the foregoing cases, where an arbitrator is empowered to act singly upon one of the parties failing to appoint, the party so failing, before the single arbitrator has actually proceeded in the arbitration, may appoint an arbitrator, who shall then act as if no failure had been made. 30
- (9.) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any), as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned. 35
- (10.) The arbitrators, before they enter upon the matters referred to them, shall appoint, by writing under their hands, an umpire to decide on points on which they may differ. 40
- (11.) If the umpire die or become incapable to act before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the person or persons who appointed such umpire shall forthwith appoint another umpire in his place. 45
- (12.) If the arbitrators refuse, or fail, or for seven days after the request of either party neglect to appoint an umpire, then, on the application of either party, an umpire shall be appointed by any Resident Magistrate acting within the district where such mine is situate. 50
- (13.) The decision of every umpire on the matters referred to him shall be final. 55
- (14.) If a single arbitrator fail to make his award within fourteen days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place. 60

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- 5 (15.) The arbitrators and their umpire, or any of them, may examine the parties and their witnesses on oath; they may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult.
- 10 (16.) The payment (if any) to be made to any arbitrator or umpire for his services shall be fixed by the Governor, and, together with the costs of the arbitration and award, shall be paid by the parties, or one of them, according as the award may direct. Such costs may be taxed by the Registrar of the Supreme Court in the judicial district where the mine is situate, who, on the written application of the parties, shall ascertain and certify the proper amount of such costs. The amount (if any) payable by the Governor shall be paid as part of the expenses of carrying this Act into execution as hereinafter provided. The amount (if any) payable by the owner, manager, or agent may, in the event of non-payment, be recovered in the same manner as penalties under this Act.
- 15 (17.) Every person who is appointed an arbitrator or umpire under this section shall be a practical mining engineer, or a person accustomed to the working of mines; but when an award has been made under this section the arbitrator or umpire who made the same shall be deemed to have been duly qualified as provided by this section.
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PART V.

PROVISIONS SPECIALLY AFFECTING COAL MINES.

33. The following provisions shall be observed in every coal mine:—Where the amount of wages paid to any of the persons employed in a coal mine to which this Act applies depends on the amount of mineral gotten by them, such persons shall be paid according to the weight of the mineral gotten by them, and such mineral shall be truly weighed accordingly :

As to payment of persons employed in mines by weight.

35 Provided always that nothing herein contained shall preclude the owner, agent, or manager of the coal 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 coal mine with the mineral contracted to be gotten, or in respect of any tubs, baskets, or hutches being improperly filled in those cases where they are filled by the getter of 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 coal mine on the one hand and the person employed in the coal mine on the other.

40 34. The persons who are employed in a coal 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") at the place appointed for the weighing of such mineral, in order to take an account of the weight thereof on behalf of the persons by whom he is so stationed. The check-weigher shall have every facility afforded to him to take a correct account of the weighing for the persons by whom he is so stationed; and, if in any coal mine proper facilities are not afforded to the check-weigher as required by this section, the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless that he prove that he had taken all reasonable means, by enforcing to the best of his power

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

the provisions of this section, to prevent such contravention or non-compliance.

Check-weigher not to impede working.

The check-weigher shall not be authorized in any way to impede or interrupt the working of the coal mine, or to interfere with the weighing, but shall be authorized only to take such account as aforesaid; and the absence of the check-weigher shall not be a reason for interrupting or delaying such weighing.

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Removal of check-weigher.

If the owner, agent, or manager of the coal mine desires the removal of a check-weigher on the ground that such check-weigher has impeded or interrupted the working of the mine, or interfered with the weighing, or has otherwise misconducted himself, he may complain to any Resident Magistrate or to any Court of Petty Sessions having jurisdiction within the district (hereinafter called "the Court"), who, if of opinion that the owner, agent, or manager shows sufficient *prima facie* ground for the removal of such check-weigher, shall call upon the check-weigher to show cause against his removal. On the hearing of the case the Court shall hear the parties, and, if they think that at the hearing sufficient ground is shown by the owner, agent, or manager to justify the removal of the check-weigher, shall make a summary order for his removal, and the check-weigher shall thereupon be removed, but without prejudice to the stationing of another check-weigher in his place.

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The Court may in every case make such order as to the costs of the proceedings as they think just.

Where persons employed to be paid by measure.

If the persons employed in a coal mine to which this Act applies are paid by the measure or gauge of the material gotten by them, the provisions of this 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.

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Application of Weights and Measures Act to mines, &c.

**35.** "The Weights and Measures Act, 1868," or any Act for the time being in force relating to weights and measures, shall apply to the weights used in any coal mine to which this Act applies for determining the wages payable to any person employed in such mine according to the weight of the mineral gotten by such person in like manner as it applies to weights used for the sale of any article; and the Inspector of Weights and Measures for the district appointed under the said Act shall accordingly from time to time, but without unnecessarily impeding or interrupting the working of the coal mine, inspect and examine, in manner directed by the said Act, the weighing machines and weights used for mines to which this Act applies, or the measures or gauges used for such mines: Provided that nothing in this section shall prevent the use of the measures and gauges ordinarily used in such mine.

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Openings to be provided.

**36.** Within two years after commencing the working of any boards, stalls, or longwall workings, there shall be made and completed at least two separate and distinct openings to the day or surface from such mine, intercommunicating 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: Provided that if in any mine such boards, stalls, or longwall workings shall 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 two years from the passing of this Act.

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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 ten pounds for every month during which the same shall remain incomplete:

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Not to apply if not more than ten persons employed.

Provided that this rule 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.

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PART VI.

GENERAL RULES APPLICABLE TO EVERY MINE.

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

5 (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.

10 (2.) Gunpowder or other explosive or inflammable substance shall only be used underground in the mine as follows :— Gunpowder and blasting.

15 (a.) It shall not be stored in the mine in any quantity exceeding what would be required for use during three working days for the purposes of the mine.

(b.) It shall not be taken into the mine except in a case or canister containing not more than four pounds.

20 (c.) If such explosive or inflammable substance be not contained in any case or canister, it shall not be taken into the mine in any quantity that when ignited would have an explosive force of more than four pounds of gunpowder.

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

25 (e.) In charging holes for blasting, an iron or steel pricker shall not be used, and a person shall not have in his possession in the mine underground any iron or steel pricker ; and an iron or steel tamping rod or steamer shall not be used for ramming either the wadding or the first part of the tamping or stemming on the powder.

(f.) A charge of powder which has missed fire shall not be unrammed.

30 (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.

35 (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.

40 (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.

45 (6.) The top and all entrances between the top and bottom of every working or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used ; and every abandoned or disused shaft shall be fenced or covered in. Fencing of entrances to shaft.

50 (7.) Where the natural strata are not safe every working or pumping shaft shall be securely cased, lined, or otherwise made secure. Securing of shaft.

- Drive and excavation to be protected.** (8.) 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.
- Division of shaft.** (9.) 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, the first-mentioned portion shall be cased or otherwise securely fenced off from the last-mentioned portion. 5
- Signalling.** (10.) Every working shaft in which persons are raised shall, if exceeding fifty yards in depth, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in work between the surface and the bottom of the shaft, to the surface, and from the surface to the bottom of the shaft, and to every entrance for the time being in work between the surface and the bottom of the shaft. 10
- Cover overhead.** (11.) A sufficient cover overhead shall be used when lowering or raising persons in every working shaft, except where it is worked by a windlass, or where the person is employed about the pump or some work or repair in the shaft. 20
- Proper ladder or footway.** (12.) A proper ladder or footway shall be provided in every working pit or shaft where no machinery is used for lowering or raising persons employed therein.
- Chains.** (13.) 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. 25
- Slipping of rope on drum.** (14.) 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. 30
- Break and indicator.** (15.) There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate break, and also a proper indicator (in addition to any mark on the rope), which shows to the person who works the machine the position of the cage or load in the shaft. 35
- Inclination of ladders.** (16.) 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 forty feet. 40
- Dressing-room.** (17.) If more than twelve persons are ordinarily employed in the mine below ground, sufficient accommodation shall 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. 45
- Person in charge of machinery.** (18.) No person under the age of eighteen years shall be placed in charge of or have the control of any steam engine or boiler, or any other mechanical power used in connection with the working of any mine. No person in charge of 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. No person in charge of steam machinery shall be employed more than eight hours in any one day as an ordinary day's work. 50 55 60

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(19.)
Every fly-wheel, and all exposed and dangerous parts of the machinery used in or about the mine, shall be and be kept securely fenced.
Fencing machinery.
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(20.)
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 once in every six months every boiler shall be subjected to a hydraulic test.
Gauges to boilers and safety-valves.
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(21.)
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, break, 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.
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(22.)
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 in advance of such working; and no drive, gallery, or other excavation shall be made within a dangerous distance of such accumulation of water.
Boring-rods to be used.
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(23.)
The manager of every mining company, or the person having the management of the mining operations carried on in a mine, shall, once in each week, carefully examine the buildings and machinery used in the workings of such mine, and the condition of the mine itself, 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 alterations required to insure greater safety to the persons employed in the working of such mine, and the repairs, if any, which have been effected during the past week.
Manager to inspect.
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(24.)
The persons employed in a mine may, from time to time, appoint two of their number to inspect the mine at their own cost, and the persons so employed shall be allowed, once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return air ways, ventilating apparatus, old workings, and machinery, and shall be afforded by the owner, agent, and manager, and all persons in the mine, every facility for the purpose of such inspection, and 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 that purpose, and shall be signed by the persons who made the same.
Inspection of mine on behalf of workmen.
- 30
(24.)
The persons employed in a mine may, from time to time, appoint two of their number to inspect the mine at their own cost, and the persons so employed shall be allowed, once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working-places, return air ways, ventilating apparatus, old workings, and machinery, and shall be afforded by the owner, agent, and manager, and all persons in the mine, every facility for the purpose of such inspection, and 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 that purpose, and shall be signed by the persons who made the same.
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Inspection of mine on behalf of workmen.
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Inspection of mine on behalf of workmen.

PART VII.

MISCELLANEOUS.

50 **38.** There shall also be established and observed in every mine to which this Act applies such special rules for the conduct and guidance of the persons acting in the management thereof, and of all persons employed in or about the same, as under the particular state and circumstances of such mine may appear best calculated to insure the

55 health and safety of the persons employed therein.

**39.** For the purpose of making known the general and special rules to all persons employed in or about each mine the owner, agent, or manager thereof shall cause the general rules aforesaid, and also all special rules applicable to each mine, to be painted on a board, or printed upon paper and pasted on a board, to be hung up or affixed on some conspicuous part of the principal office or place of business at such mine, and at the place where the workmen thereof are paid; and all rules so painted or printed and hung up shall be renewed and

restored with all reasonable despatch as often as the same or any part thereof may be defaced, obliterated, or destroyed, and a printed copy of such general and special rules shall be supplied to every person before he shall be employed in or about the mine.

Mode of determining  
new special rules.

40. With a view to determining the proper special rules to be established, the owner of every mine to which this Act applies shall frame and transmit to the Governor special rules for such mine: Provided always that such special rules shall be hung up, in the manner directed by the next preceding section, for fourteen days before the same are so transmitted; and such special rules shall be so transmitted for every mine in work at the commencement of this Act within *three* months after such commencement, and for every such mine not then in work within *three* months after the working thereof shall be commenced or renewed; and such rules, when approved by the Governor, shall be published in the *New Zealand Gazette*: Provided that if such rules be not so approved, the Governor shall, within *forty* days after the receipt thereof, propose and transmit to the owner any alterations in or additions to the same, or the substitution of any other rules therefor or for any of them. And if such owner object to any such alteration, or addition, or substituted rules, he may, within *fourteen* days after his receipt of the same, give notice in writing of his objection thereto to the Governor, and thereupon the matter shall be referred to arbitration; and the date of the receipt of such objection by the Governor shall be deemed to be the date of the reference, and the rules shall be establish as settled by an award or arbitration.

The provisions of section *thirty-two* shall, as far as circumstances will permit, apply to every such arbitration: Provided that no costs shall be awarded to be paid by or on behalf of the Governor.

Amendment of  
special rules.

41. After special rules are established under this Act in any mine, the owner, agent, or manager of such mine may from time to time propose in writing any amendment of such rules for the approval of the Governor; and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as near as may be, as they apply to the original rules.

Accident evidence  
of neglect.

42. Any accident occurring in a mine shall be *prima facie* evidence that such accident occurred through some negligence on the part of the owner, or some defect in the management, ventilation, or machinery of the mine.

Wages not to be paid  
at publichouses, &c.

43. No wages shall be paid to any person employed in or about any mine to which this Act applies at or within any publichouse, beershop, 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 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.

Shafts with vertical  
or overhanging  
ladders to have  
platforms.

44. In every case where, at the time of the passing of this Act, vertical or overhanging ladders were 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 a reasonable time after the passing hereof shall be guilty of an offence against this Act.



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45. 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 due solely to the negligence of the person so injured or killed, 5 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 10 costs of recovering the same when determined, shall constitute 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.

Employer to compensate employee injured through non-observance of this Act.

46. Whenever loss of life or serious personal injury to any person 15 employed in or about any mine occurs by reason of any explosion or other accident whatever within such mine, or any pit, or shaft thereof, or any works or machinery connected therewith, the owner, agent, or manager shall, within twenty-four hours next after such accident, give notice in writing thereof, and of the loss of life or serious personal 20 injury occasioned thereby, to the Inspector of the district within which such accident shall have occurred, and shall specify in such notice the probable cause thereof, and such notice may be delivered or transmitted through the post; and every owner, agent, or manager who neglects to send, or cause to be sent, such notice within the time aforesaid, 25 shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

Notice of accidents.

47. Every Coroner holding an inquest on the body of any person whose death may have been caused by any such explosion or accident shall, unless the Inspector of the district, or some person on behalf of 30 the Governor, be present to watch the proceedings of such inquest, adjourn the same, and by letter delivered or sent through the post four days at the least before holding the adjourned inquest, give notice of the time and place of holding the same: Provided that such Coroner may, before such adjournment, take evidence to identify the body, and 35 order the interment thereof: Provided also that if the accident has not occasioned the death of more than one person, 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 40 unnecessary. 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, subject nevertheless to the order of the Coroner.

Adjournment of inquests on deaths.

48. A copy of the special rules for the time being established in any mine, certified under the hand of the Inspector of the district to 45 be a copy of the special rules established in such mine, shall, without further proof, be evidence of such special rules, and of their being duly established under this Act.

Certified copies of special rules to be evidence.

49. Every Inspector shall, on or before the *thirty-first* day of *January* in every year, make a report in writing of his proceedings 50 during the year ending on the next preceding *thirty-first* day of *December*, and transmit the same to the Governor.

Reports of Inspectors.

50. All salaries of Inspectors of Mines, and all other expenses of carrying the provisions of this Act into effect, shall be a charge upon the consolidated revenue of New Zealand.

Expenses of working Act.

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## PART VIII.

## PENALTIES FOR OFFENCES.

51. 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

Penalties for offences against 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 **5** *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 **10** such penalty, to be imprisoned for any period not exceeding one month; and every person other than as aforesaid 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 **15** for any period not exceeding one month.

Penalty for obstructing Inspectors.

**52.** 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. **20**

Defacing notices.

**53.** Every person who 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. **25**

What shall be offences against Act.

**54.** Every person employed in or about a mine, other than an owner, agent, or manager, who is guilty of any 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. **30**

Penalty for offences against Act.

**55.** 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, *one hundred* pounds, and, if he is any other person, *ten* pounds, for each **35** 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.

**56.** Every person who wilfully violates or neglects any provision of this Act for the violation or neglect of which no penalty is hereby expressly imposed, or any general or special rule established hereby or hereunder, shall, for every such offence, be liable to a penalty not exceeding *ten* pounds. **40**

Penalties how recoverable and to be applied.

**57.** All penalties imposed by this Act may be recovered in a summary manner, in accordance with the provisions of "The Justices of the Peace Act, 1866." **45**

Provided also that it shall be lawful for the Governor to direct 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 **50** 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.

SCHEDULE.

TABLE of Maximum Fees to be paid in respect of Certificates of Managers of Mines:—

By an Applicant for Examination	...	...	...	Two Pounds.
By Applicant for Certificate of Service for Registration	...	...	...	Five Shillings.
For Copy of Certificate	...	...	...	Five Shillings.

Schedule.