

No. 45 of 1977.

Mining (Safety) Act 1977.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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Mining (Safety) Act 1977.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Mining (Safety) Act 1977,

Being an Act to provide for the regulation and inspection of mines and works, and for related purposes, to be incorporated and read with the *Mining Act 1992*.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS, ETC.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the Constitution, namely–

- (a) Section 44 (*freedom from arbitrary search and entry*); and
- (b) Section 49 (*right to privacy*); and
- (c) Section 51 (*right to freedom of information*),

is a law that is made for that purpose, taking into account the National Goals and Directive Principles and the Basic Social Obligations, in particular the National Goals and Directive Principles entitled national sovereignty and self reliance, for the purpose of giving effect to the public interest in–

- (d) public safety; and
- (e) public welfare; and
- (f) public health.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is hereby declared that this Act relates to a matter of national interest.

2. INTERPRETATION.

(1) In this Act, unless the contrary intention appears–

- “**agent**” means a person acting on behalf of the owner or occupier, and includes a person having the care and direction of, or any part of, or any works connected with, a mine;
- “**alluvial miner**” means a person who is the holder of an alluvial miner’s permit granted under this Act;
- “**boiler**” means any apparatus adapted to the continuous conversion of any liquid into steam, vapour or gas, and includes any part of the apparatus that is capable of being so adapted by the closing of stop-valves or stop-cocks, and the fittings and appurtenances of the apparatus;
- “**Chief Inspector**” means the person appointed as the Chief Inspector under Section 5(1);
- “**colliery**” means a mine worked for the production of coal or shale;
- “**commencement date**” means 8 June 1978, being the date on which the *Mining (Safety) Act 1977* came into force.
- “**dam**” includes—
- (a) any natural or artificial depository of water; and
 - (b) any dam for the retention of tailings and waste products of mining operations;
- “**dredge**” means a boat, raft or pontoon carrying excavating machinery, and a screening or washing plant for mining alluvial gravel;
- “**electrical apparatus**” includes all apparatus, machines, and fittings in which conductors of electric current are used or of which they form a part;
- “**excavation**” means any cavity in or about any mine or works, and includes any shaft, winze, drive, rise and all passages and workings in a mine;
- “**explosives**” means explosives within the meaning of the *Explosives Act 1953*;
- “**inspector**” means an inspector appointed or deemed to have been appointed under this Act, and includes the Chief Inspector;
- “**machinery**” means every kind of mechanical appliance, and includes stationary and portable boilers, steam apparatus, steam and other engines, locomotives, air receivers, furnaces, stampers, winding and pumping gear, whims, windlasses, chains, trucks, cages, tramways, tackle, blocks, ropes, tools, and all electrical and other appliances which can be used for developing, receiving, transmitting or converting either mechanical or natural power of any kind, used in or about any mine or works;
- “**manager**” means the person for the time being having immediate control and direction of operations in or about any mine, or at or in any works, and includes a mine manager or manager of works, or deputy manager appointed under this Act by an owner, agent or manager;

“motor” includes—

- (a) any stationary engine; and
- (b) any engine whose motive force is electricity, gas, oil, petrol, compressed air or hydraulic power; and
- (c) any internal combustion engine;

“owner” means—

- (a) in relation to a mine—
 - (i) the holder of the mining tenement on which the mine is situated; or
 - (ii) the holder of a sublease of such tenement; or
 - (iii) a person in possession of such tenement with the consent of the holder; and
- (b) in relation to works—the owner or lessee, or person in possession with the consent of the owner or lessee, of the land on which the works are situated;

“quarry” means a surface excavation or tunnel made in the earth for the purpose of extracting stone, gravel, rock or other material for the construction of roads or buildings;

“reef” means a vein, lode or deposit other than surface alluvial ground, containing minerals;

“the repealed Act” means the *Mines and Works Regulation Act 1935*, of the former Territory of New Guinea (Adopted);

“rise” means any vertical or inclined way or opening upward from the underground workings in a mine;

“safety pillar” means every portion of a reef, mineral deposit or ground left *in situ* for the support and protection of—

- (a) the surface; or
- (b) any structure, plant or excavation on the surface; or
- (c) any underground workings;

“stope” means a working in which a section or block of reef, which has been opened up by means of levels and their connections, is being removed;

“this Act” includes any regulations made under this Act;

“underground miner” means the holder of an underground miner’s permit granted under this Act;

“winding engine” means any machinery used for raising or lowering men or materials in a shaft in any mine or other works, whether erected on the surface or underground;

“**winze**” means any vertical or inclined way or opening downwards from the underground workings in a mine;

“**workings**” include all those portions of a mine which have been excavated, whether abandoned or not, and those portions being excavated;

“**works**” means any battery, crushing mill, cyanide or chlorination works, smelting works, or metal refining, power generation, or other works in which operations are carried on for, or incidental to, the winning or the treatment of mine products, whether such battery, mill or works is or is not connected with any mine.

(2) Subject to Subsection (1), a word or expression defined in Section 2 of the *Mining Act 1992* shall, unless the contrary intention appears, have that defined meaning when used in this Act.

3. APPLICATION.

(1) Subject to Subsection (2), this Act, shall extend and apply to every mine held under any tenure, and to every works operating in connection with mining or in the winning, or the treatment, of gold or minerals.

(2) The Minister may at any time by notice in the National Gazette exempt any, or any class of mine or works, or any gold-field or mineral field, from the operation of any Part or section of this Act.

4. QUARRIES, ETC.

(1) Unless the Minister otherwise orders, this Act shall not apply to any quarry or to any dam made for the provision of water for agricultural, pastoral, transport, domestic or other purposes not connected with mines or works.

(2) An order of the Minister referred to in Subsection (1) shall be published in the National Gazette and shall—

- (a) declare what provisions of the Act are applied; and
- (b) specify the quarry or dam, or the classes of quarry or dam, to which the several provisions are applied.

PART II. – ADMINISTRATION.

5. APPOINTMENT OF INSPECTORS.

(1) The Minister may, by notice in the National Gazette, appoint–

(a) a person to be the Chief Inspector; and

(b) such other persons to be inspectors as he thinks necessary,

for the purposes of this Act.

(2) The Minister shall issue to the Chief Inspector and to each inspector a certificate stating that he is an inspector.

(3) Where the appointment of a person under this section expires or is revoked, that person shall immediately surrender to the Minister the certificate issued to him under this section.

PART III. – INSPECTION, REGULATION, AND WORKING OF MINES AND WORKS.

Division 1.

Inspection.

6. POWERS OF INSPECTOR.

- (1) For the purposes of this Act, an inspector, at all reasonable times, may–
- (a) enter, inspect, and examine any mine or works but so as not unnecessarily to interfere with the working of the mine or works; and
 - (b) examine into and make inquiries respecting–
 - (i) the state and condition of; and
 - (ii) the state and condition of the machinery in or about; and
 - (iii) the ventilation of; and
 - (iv) the adequacy of any special rules in force in; and
 - (v) all matters relating to the safety and health of the persons employed in or about; and
 - (vi) the compliance, generally, with the provisions of this Act affecting,
 - any mine or works; and
 - (c) take or remove for–
 - (i) the purpose of analysis or testing; or
 - (ii) use in evidence in connection with an offence against this Act,
 - samples of gold, minerals and other substances from a mine or works; and
 - (d) inspect, take extracts from, and make copies of any documents relating to any mine or works; and
 - (e) order, by written notice to the manager–
 - (i) the cessation of operations in, and the withdrawal of all persons from any, or any part of, a mine or works; or
 - (ii) the discontinuance of the use of any machinery,
 - that the inspector considers unsafe, unless and until such action as is necessary for safety and specified in the notice is taken and completed; and
 - (f) obtain and record statements from witnesses, and appear at inquests, and call and examine witnesses, and conduct or assist in the conducting of a prosecution for any offence against this Act; and

(g) exercise such powers as are necessary for carrying this Act into effect.

(2) Before exercising any of his powers under Subsection (1), the inspector shall produce his certificate referred to in Section 5(2)–

(a) to the person present at the mine or works, as the case may be, who is or appears to be in charge of that mine or those works; or

(b) where the inspector is about to give an order under Subsection (1)(e)–to the manager to whom he is about to give that order.

(3) Any person who is aggrieved by a decision, requisition or order of an inspector made under this Act may appeal in writing to the Chief Inspector who shall, as soon as practicable, hear and dispose of the appeal, but the bringing of the appeal does not affect the operation of the decision, requisition or order appealed from pending disposition of the appeal.

(4) On appeal under Subsection (3), the Chief Inspector may–

(a) rescind or affirm the decision, requisition or order appealed from; or

(b) make a new decision, requisition or order in substitution,

and that decision, requisition or order shall not be subject to further appeal.

(5) In exercising his powers under this Act, an inspector may be accompanied by any person who the inspector believes has special or expert knowledge of any matter being inspected, tested or examined.

7. WARDEN, ETC., TO HAVE POWERS OF INSPECTOR.

(1) Any–

(a) Warden; or

(b) mining engineer or geologist in the Public Service authorized by the Director to do so,

may exercise the powers of, and incidental to, entry, examination, and inquiry which are, under this Act, conferred on inspectors.

(2) Any surveyor or other officer in the Public Service authorized by the Chief Inspector to do so, may enter and inspect any mine or works and take samples from any mine or works.

(3) A person who obstructs a person referred to in this section in exercising his powers under, or referred to in, this section, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

8. PARTICULARS OF INSPECTION TO BE ENTERED IN BOOK.

(1) After every inspection of any mine, works or machinery, the inspector shall enter in a book which shall be kept for that purpose at the mine or works–

(a) his observations on the condition of the mine, works and machinery at the time of the examination; and

(b) the particulars of any alterations or requirements he thinks necessary.

(2) Nothing contained in or omitted from any entry made by the inspector shall limit the responsibility of the owner, agent or manager under this Act.

(3) The book kept under this section shall be open at all reasonable times to the examination of any—

(a) Warden; and

(b) inspector; and

(c) person employed in or about the mine or works; and

(d) person authorized in writing by the Chief Inspector to examine it.

9. POWER OF INSPECTOR TO GIVE DIRECTIONS TO REMEDY DANGEROUS PRACTICE, ETC.

(1) Where an inspector finds that—

(a) any mine, works or part of any mine or works; or

(b) any matter, thing or practice in or connected with a mine or works, or in connection with the control, management or direction of any mine or works,

is dangerous or defective, the inspector shall by written requisition addressed to the owner or manager of the mine or works and delivered at the mine or works—

(c) specify the nature of the danger or defect; and

(d) require that the matter complained of be remedied immediately or within the time specified in the requisition.

(2) An owner or manager who refuses or fails to comply with any requisition made under Subsection (1) is guilty of an offence.

(3) A copy of every requisition made under this section and received by the owner or manager shall be entered by him in the book required to be kept under Section 8.

10. INSPECTOR TO INVESTIGATE CAUSE OF COMPLAINT.

(1) Where an inspector receives any written complaint purporting to be made by or on behalf of any person employed in or about any mine or works, or by any association of persons who are so employed, that any part of the mine or works or any machinery used there is unsafe, he shall, without delay, investigate the complaint.

(2) An inspector or other officer of the Public Service to whose knowledge the complaint comes, shall not disclose the identity of the person making the complaint.

11. WARDEN MAY AUTHORIZE EXAMINATION OF MINE IN CERTAIN CASES.

(1) In any case in which a Warden has reason to believe that a state of imminent danger exists in or about any mine or works and there is no inspector available for the purpose, he may—

- (a) authorize in writing any two persons, competent to make the inspection, to inspect the mine or works specified in the authority; and
- (b) require them to report to him the result of their inspection.

(2) The persons authorized under Subsection (1) may, in relation to the safety of employees engaged in or about the mine or works specified in the authority, exercise the powers of, and incidental to, entry, examination and inquiry which are, under this Act, conferred on inspectors.

12. OBSTRUCTING INSPECTORS, ETC.

Any person who—

- (a) wilfully obstructs or uses insulting language to; or
- (b) fails to obey any order lawfully made by,

an inspector or a person having the powers of an inspector acting in the course of his duty, is guilty of an offence.

13. NEGLECTING OR REFUSING FACILITIES FOR INSPECTION.

Any owner, agent or manager of a mine or works who, when required by an inspector or by a person having the powers of an inspector, to furnish him with the means or facilities necessary to enable him to enter, inspect or examine, or to exercise his power of inquiry in connection with, any part of the mine or works, neglects or refuses to furnish the means or facilities is guilty of an offence.

14. WARDEN, ETC., TO TREAT INFORMATION CONFIDENTIALLY.

A Warden, inspector, or other officer of the Public Service who, except in the course of his duty or as a witness in any court, makes any oral or written report, or divulges to any person any facts in respect of any mine or works is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months.

15. INQUIRY AS TO OBSERVANCE OF PROVISIONS RELATING TO SAFETY.

(1) Where an inspector believes that any provision of this Act or any special rule made under this Act affecting the safety and well-being of any person employed at or about any mine or works is not being observed he may hold an inquiry.

(2) For the purposes of an inquiry under Subsection (1) the inspector may—

- (a) summon by writing under his hand any person whose evidence he considers likely to be material to the determining of any question the subject of the inquiry; and
- (b) take evidence on oath; and
- (c) require the production of any relevant book or document in the possession or control of any person.

(3) Any person who, after payment or tender of the prescribed expenses, without reasonable cause, neglects or fails to attend in obedience to the summons, or to be sworn, or to answer any question or produce any relevant book or document is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(4) This section shall not be construed as compelling a person to answer any question which would tend to incriminate him.

Division 2.

Management and Supervision.

16. APPOINTMENT AND QUALIFICATIONS OF MANAGER.

(1) Every mine or works, while being worked or operated, shall be under a manager, who shall be responsible for the control, management and direction of the mine or works.

(2) Except as provided in the regulations, an owner of a mine shall not appoint or allow any person who does not hold the prescribed manager's certificate to be the manager of the mine.

(3) Except as provided in the regulations, the name and address of the manager of any mine or works shall, within one month of his appointment be registered with the Chief Inspector by the owner or his agents.

(4) Where the name and address of a person has been furnished for registration as the manager of more than one mine or works the Chief Inspector may, by written notice require the owner or his agent to appoint, within the time specified in the notice, a different manager for each mine or works and may refuse to register the name for more than one mine or works.

(5) The Chief Inspector shall—

- (a) keep a register of the name and address of every manager and of the mine or works of which he is manager; and
- (b) issue to the owner or his agent a certificate of the registration.

17. PENALTY FOR OPERATING WITHOUT A REGISTERED MANAGER.

(1) Subject to Subsection (2), if any mine or works is worked or operated for a period of more than seven days, except under the control, management and direction of a manager whose name has been registered under Section 16, the owner and agent of the mine or works are each liable to a penalty of a fine not exceeding K20.00 for every day of the period in excess of seven days that the mine or works, as the case may be, was so worked or operated.

(2) If the manager of the mine or works—

(a) is incapacitated by illness or accident; or

(b) is about to be absent from the mine or works for more than seven days,

he or the owner or agent may appoint a competent person approved by the Chief Inspector, not necessarily the holder of a managers certificate, to be deputy manager during the incapacity or absence, and the manager, owner or agent shall promptly notify the Chief Inspector of the appointment and the reason for the appointment.

(3) A deputy manager appointed under Subsection (2) shall be subject to the same obligations and liabilities as a manager.

(4) An appointment as deputy manager under Subsection (2) shall not, except with the permission of the Chief Inspector, be for a longer period than two months.

18. MANAGER TO ENFORCE ACT.

A manager shall enforce the observance of the provisions of this Act in or about the mine or works of which he is the manager and shall, at the first opportunity, report any breach of the provisions of this Act to an inspector.

19. MANAGEMENT WHERE MINE WORKED BY CONTRACTOR OR TRIBUTER.

(1) It shall be a condition of every agreement made with a contractor or tributer for the working of the whole or any part of a mine of which there is a registered manager that, unless and until the contractor or tributer, with the consent of the owner or agent of the mine, appoints a manager to supervise the working, the registered manager shall have the control and supervision of, and be responsible for, the working of the whole, or that part, of the mine.

(2) Where the contractor or tributer appoints a manager for a part only of the mine—

(a) the owner and the contractor or tributer shall, in writing, specify the part of the mine and, in respect of that part, the manager so appointed shall have responsibility for the observance of the provisions of this Act; and

(b) in respect of the remainder—the registered manager referred to in Subsection (1) shall have full responsibility.

(3) This section does not apply where the whole of the land or mines comprised in a mining tenement is the subject of a tribute agreement and it is one of the conditions of the tribute agreement that the tributer or a person appointed by him shall be appointed manager.

20. WITHDRAWAL OF WORKMEN IN CASE OF DANGER.

(1) Notwithstanding the absence of any order referred to in Section 6(1)(e) the manager, when it appears that the mine or part of the mine of which he is the manager is, from any cause, dangerous, shall promptly—

- (a) cease operations in, and withdraw all persons from, the mine or the part of the mine where the danger exists; and
- (b) report the facts to the nearest inspector in writing; and
- (c) enter, in a book kept for the purpose, the fact and date of the report as well as a brief memorandum of the facts reported.

(2) Where under this section any workman has been withdrawn from any mine or part of a mine, he shall not, except so far as may be necessary for the purpose of exploring and reporting on the existence of danger in the mine, be readmitted to the mine or the part of the mine until an inspector certifies that the mine or part of the mine is free from danger.

21. PROOF OF NEGLIGENCE.

The occurrence of any accident in or on any mine or works shall be prima facie evidence of negligence on the part of the owner and the manager.

Division 3.

Conditions of Employment.

22. UNDERGROUND EMPLOYEES TO HAVE KNOWLEDGE OF ENGLISH OR PISIN.

A person shall not be employed in the underground working of any mine unless—

- (a) he is able readily and intelligibly to speak, and readily to read in print or manuscript, English or Tok Pisin; or
- (b) he is able to understand, and make himself understood by, those under whom he is placed.

23. AGE OF EMPLOYEES.

(1) A person shall not be employed in any capacity in or about any mine or works unless—

- (a) being a male—he is over the age of 16 years; or
- (b) being a female—she is over the age of 16 years and is—

- (i) employed in clerical or technical duties; or
- (ii) engaged in working any mining tenement of which she is the holder.

(2) In no case shall a female be employed or work underground.

24. EMPLOYMENT OF LANDER, BRACEMAN OR PLATMAN.

A person shall not be employed in a mine as a lander, braceman or platman unless he is 18 years of age or over and is the holder of a prescribed permit.

25. OWNER, ETC., RESPONSIBLE FOR COMPLIANCE WITH CERTAIN CONDITIONS.

An owner, agent, or manager who fails to—

- (a) enforce; or
- (b) dismiss or transfer to some other employment, when ordered to do so by an inspector, any employee employed in contravention of,

any of the provisions of Sections 22, 23 and 24 is guilty of an offence.

26. LIMITATION OF EMPLOYMENT UNDERGROUND.

(1) Subject to Subsection (2), an owner, agent or manager shall not employ a person underground in a mine for more than—

- (a) eight hours in any period of 24 hours; or
- (b) 48 hours in any period of seven days.

(2) A person is not liable for a breach of this section where the employment in excess of the number of hours mentioned in this section is certified by an inspector to be, or to have been, in some—

- (a) process that is necessarily continuous; or
- (b) operation necessary for the safety of the mine; or
- (c) emergency or special circumstance that justifies the employment.

27. EMPLOYEES TO BE UNDER CONTROL OF OWNER, ETC., IN CERTAIN CASES.

Where, in the opinion of an inspector, the employment of a person in or about a section of a mine or works could result in danger to that person or to any other person, the inspector shall order that that person or any person shall not be so employed unless he is under the immediate control of the owner or manager or of some other person appointed by the owner or manager and approved in writing by the inspector for the purpose.

28. UNDERGROUND EMPLOYMENT OF MEN NOT BEING UNDERGROUND MINERS.

(1) Every person who is not an underground miner shall, while employed on any underground face in any mine, be employed only under the supervision of an underground miner.

(2) Every underground face in any mine at which a person who is not an underground miner is employed shall, at least once in every two hours during every working shift, be visited and inspected by the underground miner who is in charge of the underground face.

29. ALLUVIAL MINING.

The owner, agent or manager of a mine where, in mining on any alluvial ground, there is any employment of—

- (a) a person who is not an alluvial miner; or
- (b) more than 10 persons; or
- (c) explosives,

shall ensure that the employment is under the supervision of an alluvial miner.

30. CERTIFICATE OR PERMIT REQUIRED TO DRIVE WINDING ENGINE, ETC.

(1) The owner, agent or manager shall not, in or about any mine or works, employ a person to drive, control or operate—

- (a) any winding engine or machinery, other than a winding engine or machinery operated by manual power, when used for raising or lowering men in a shaft or for raising or lowering materials in a shaft when the shaft is being sunk; or
- (b) any steam engine or boiler; or
- (c) any machinery or device to which the Minister declares, by notice in the National Gazette, that this section shall apply,

unless the person holds the prescribed certificate or permit.

(2) A person shall not drive, control, or operate—

- (a) any winding engine or machinery, other than a winding engine or machinery operated by manual power, when used for raising or lowering men in a shaft or for raising or lowering materials in a shaft when the shaft is being sunk; or
- (b) any steam engine or boiler; or
- (c) any machinery or device to which the Minister declares, by notice in the National Gazette, that this section shall apply,

unless he holds the prescribed certificate or permit.

31. MEDICAL CERTIFICATE FOR PERSON IN CHARGE OF WINDING ENGINE.

(1) Every person in charge of a winding engine shall, at intervals of not more than two years, forward to the Chief Inspector a certificate by a medical practitioner stating that the person is not suffering from deafness, defective vision, epilepsy, disease of the heart or other physical infirmity to such extent as would, or would be likely to, render him unfit for his duties or liable to become suddenly incapable of controlling the engine.

(2) A person in charge of a winding engine who does not comply with Subsection (1) and any manager who employs the person, is guilty of an offence.

32. RESPONSIBILITY FOR EMPLOYEES.

The holder of a certificate or permit granted under this Act, when acting as an overseer of employees in or about any mine or works, shall take reasonable precautions to ensure that those employees do nothing to contravene the provisions of this Act.

33. NEGLIGENCE OR MISCONDUCT OF PERSONS HOLDING A CERTIFICATE OR PERMIT.

(1) Where the holder of a certificate or permit under this Act is guilty of such negligence or misconduct as to endanger the safety of a person employed in or about a mine, he is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(2) The court by which a person is convicted under this section may—

- (a) suspend his certificate or permit; or
- (b) cancel the certificate or permit and declare the person convicted to be disqualified from obtaining a certificate or permit,

for such time as the court thinks fit.

34. LIMITATION ON EMPLOYMENT IN CHARGE OF MACHINERY.

(1) Unless permitted by writing under the hand of an inspector, a person in charge of machinery shall not be employed in or about a mine or works for shifts or periods longer than those prescribed.

(2) Between and during the shifts or periods there shall be such intervals as are prescribed.

Division 4.***Plans of Mines.*****35. PLANS TO BE KEPT AT MINE.**

(1) The owner, agent or manager of a mine shall ensure that accurate plans and sections of all underground workings of the mine, and such surface workings as the Chief Inspector requires, shall be made from surveys effected by a mining or other surveyor or by a manager as prescribed, and are kept in an office at the mine.

(2) The plans and sections shall from time to time, and at intervals of not more than three months, be amended so as to show all the underground or other workings not previously included in the plans or sections.

(3) The plans and sections shall have relation to some permanent surface mark and show such features of the workings as are prescribed.

36. COPIES OF PLANS OF ABANDONED MINES TO BE FURNISHED.

Where any mine having underground workings is abandoned or ceases operations for a period of more than seven days, the manager shall, where required by the Chief Inspector—

- (a) cause a survey of the mine to be completed promptly; and
- (b) forward to the Chief Inspector a copy of the plans and sections of the workings certified by the surveyor or other person making the survey.

37. PLANS MAY BE INSPECTED.

Every owner, agent or manager of a mine, or the person for the time being having the custody of the plans or sections referred to in Section 35, shall—

- (a) produce them or cause them to be produced to an inspector or to any other officer authorized for the purpose in writing by the Chief Inspector within a reasonable time after a demand has been made for their production; and
- (b) permit the person to examine and make copies of any plan or section.

38. EXEMPTIONS AS TO PLANS.

Notwithstanding this Act, the Chief Inspector may, by writing under his hand, exempt any owner, agent or manager from keeping plans or sections in relation to the whole or any part of the workings of a mine.

39. COPIES OF PLANS OF WORKINGS TO BE FURNISHED ANNUALLY.

The owner, agent or manager of a mine shall furnish to the Chief Inspector not later than 31 March in every year, copies of the plans and sections made and kept in accordance with Section 35, certified by the manager as true copies and showing all

the underground workings and, where the Chief Inspector requires, the surface workings of the mine, existing on 31 December last preceding.

40. POWER TO ORDER CHECK SURVEY.

(1) Where the Chief Inspector believes that a copy of a plan or section of the workings of any mine furnished in accordance with this Act is incorrect or incomplete, he shall report the matter to the Minister.

(2) The Minister may, if he thinks fit, order a survey of the workings to be made for the purpose of checking the copy of the plan or section.

(3) If, as a result of the survey ordered by the Minister, it appears to the Minister that a copy of a plan or section is incorrect or incomplete, he may require that the costs of the survey shall be paid to the State and the costs shall be a debt due from the owner of the mine to the State.

41. COPIES OF PLANS TO BE CONFIDENTIAL.

(1) A person shall not, except on the authority of the Minister, or the Chief Inspector and for the purposes of the State, make a copy of, or tracing from, any copy of a plan or section furnished to the Chief Inspector, or taken by an inspector or other officer, in accordance with this Act, without the consent of the owner, agent or manager of the mine to which the plan or section relates.

(2) A person having the custody of any copy referred to in Subsection (1) shall not, except with the authority and for the purposes or with the consent referred to in Subsection (1), allow any person to inspect, or give to any person any description of, or information relating to, the copy.

(3) Notwithstanding Subsections (1) and (2), where the right or title to any mine is abandoned, surrendered or forfeited, a person, on application to the Chief Inspector, may be permitted to examine the copies of the plans and sections of the mine held by the Chief Inspector.

Division 5.

Construction and Use of Dams.

42. CONDITIONS RELATING TO CONSTRUCTION OR ALTERATION OF DAMS.

(1) A person must not commence to construct or enlarge or otherwise alter any dam or a capacity exceeding 3,000,000 l for the purposes connected with any mine or mining operations without the approval of the Chief Inspector.

(2) Before approval under Subsection (1) is given, the person requiring it must—

- (a) lodge with the Chief Inspector plans and specifications showing such details as may be prescribed of the construction or enlargement or other alteration proposed to be carried out; and

(b) satisfy the Chief Inspector that all proper measures have been and will be taken to ensure safety.

(3) The Chief Inspector may make it a condition of his approval that the proposed construction or enlargement or other alteration shall be carried out only under the supervision of an inspector or some person nominated by him.

(4) A person must not, in carrying out any work referred to in Subsection (1), depart in any particular from the plans and specifications on which the approval for the work was granted without the written consent of the Chief Inspector or the inspector or person under whose supervision the work is required to be carried out.

(5) A person must not use the dam until an inspector has inspected it and certified that it is satisfactory.

(6) Any person who contravenes any of the provisions of this section is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

43. INSPECTION OF DAMS.

(1) All dams constructed or used for mining purposes may, at all reasonable times, be inspected by an inspector.

(2) Where it appears to an inspector that any dam is dangerous to human life or property he may, by written notice to the owner or the person in charge of the dam, require him promptly—

(a) to empty the dam and keep it empty; or

(b) to discontinue its use until it has been repaired or reconstructed to the satisfaction of the inspector.

(3) Where—

(a) he deems it advisable; or

(b) any repairs or reconstruction required under Subsection (2) have not been promptly carried out,

the inspector may cause to be taken such measures for the repair of any defect in the dam as he considers necessary for safety, and the cost of the repair shall be a debt due from the owner of the dam to the State.

44. DAMS ABOUT TO BE ABANDONED TO BE EMPTIED, ETC.

(1) Where the owner of any dam used for mining purposes intends to abandon it, he shall, before abandoning it, cause it to be emptied or to be treated in the manner prescribed.

(2) Within 14 days after abandoning the dam the owner shall, in writing, notify the Chief Inspector of the abandonment.

Division 6.

Safety.

45. ANY UNSAFE CONDITION IN MINE OR WORKS TO BE REPORTED.

(1) Every person employed in or about a mine or works who becomes aware of anything in or about the mine or works which is likely to cause injury to a person or to the mine or works shall promptly report the fact to a person in authority at the mine or works.

(2) Every person on leaving the place in any mine or works at which he is employed shall report—

(a) to the person relieving him; or

(b) to the person in charge at the place,

the condition of the workings at the place.

(3) The manager, on becoming aware of any danger existing in or about a mine or works, shall take such steps as are necessary to eliminate the danger.

46. EMPLOYEES TO ASCERTAIN IF APPLIANCES ARE SAFE.

(1) Every person employed in or about a mine or works shall, before commencing and whilst at work, take all reasonable precautions to ascertain whether the tubs, trucks, chains, tackle, windlass, ropes, tools or other appliances used by him and the place in which he works are safe.

(2) A person shall not—

(a) use any of the appliances referred to in Subsection (1) which appear unsafe; or

(b) remain in any unsafe working place.

47. DANGER SIGNALS.

(1) The manager of a mine or works shall cause to be erected and maintained such danger signals and in such positions in the mine or works as an inspector directs.

(2) Danger signals referred to in Subsection (1) shall be in such form, approved by an inspector, as will be understood by all employees working in the mine or works.

48. CYANIDE POISONING.

(1) The owner, agent or manager of every mine or works where cyanide is used shall ensure that a sufficient supply of an efficient antidote against cyanide poisoning is kept at a convenient place in a box labelled "Cyanide Antidote" to the lid of which shall be affixed explicit directions for its use.

(2) All vessels used for treatment with acid or zinc slimes from the cyanide process shall be fitted with mechanical agitators and hood or other appliances of such

nature as to ensure that the fumes generated in the vessels are carried direct to the external air.

(3) Where tailings from milling operations are used for filling worked-out areas underground, the moisture contained in the tailings and the liquid draining off the tailings shall not have a higher cyanide content than 0.005% expressed as cyanide of potassium.

49. SUPPLY OF DRINKING WATER.

An adequate supply of wholesome drinking water shall be provided and made readily accessible in a convenient position in every mine or works by the owner, agent or manager.

50. VENTILATION OF ADJOINING MINE NOT TO BE OBSTRUCTED.

Where any ventilation of the underground workings of a mine is afforded by communication between it and an adjoining mine, the owner, agent or manager of either mine shall not, without the consent of an inspector, obstruct or permit an obstruction to the ventilation so afforded.

51. DAMAGING OR REMOVING PROTECTION FROM ABANDONED WORKINGS.

(1) A person who, after the disuse or abandonment of any excavation—

- (a) wilfully damages the excavation or renders it dangerous by the removal of any timber, fencing, casing, lining, ladder, platform or other thing; or
- (b) removes, without the consent of an inspector, any portion of any mound or dump placed at the mouth of a shaft for the purposes of preventing persons or animals from falling into the shaft,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(2) The court before whom a person is convicted of an offence against this section may, in addition to imposing the prescribed penalty, order the person within the time limited by the order—

- (a) to replace the timber, fencing, casing, lining, ladder, platform, portion of the mound or dump or other thing removed; and
- (b) to repair the damage done to any shaft, level, drive or excavation by the removal referred to in Subsection (1),

and in default of compliance with the order, to pay to the State such sum as the court assesses for damages.

52. PROTECTION OF ABANDONED SHAFTS.

(1) Every abandoned or disused shaft or dangerous surface excavation in or about any mine shall be safely and securely fenced or covered or filled in and its position shall be indicated by erecting on the surface a permanent and conspicuous mark in the form of a post or a cairn carrying a warning notice.

(2) The owner, agent and manager of the mine shall—

- (a) ensure compliance with the provisions of Subsection (1); and
- (b) continue to be responsible until the compliance has been certified in writing by an inspector to be complete.

53. REMOVAL OF PROPS AND TIMBER FROM ADJOINING MINE.

Where one mine adjoins another the owner, agent or manager of the one shall not—

- (a) without notice to the owner, agent or manager of the other; and
- (b) without the consent of an inspector,

remove, or permit the removal of, any props, timber or stone wall in or on the mine where the removal may render unsafe or inaccessible any portion of either mine.

54. NOTICE OF OPENING OR RE-OPENING A SHAFT, ETC.

Where in a mine—

- (a) a working is commenced for the purpose of opening a new shaft, vein, lode or seam; or
- (b) the working is recommenced on a shaft, vein, lode or seam that has been abandoned or discontinued for a period exceeding two months,

the owner, agent or manager shall, within seven days immediately after that commencement or recommencement, give to the Chief Inspector written notice of the commencement or recommencement, as the case may be.

Division 7.

Accidents.

55. ACCIDENT TO BE REPORTED.

Where an accident occurs in or about a mine or works it is the duty of every person employed there, as soon as he becomes aware of the accident, to report it to the person in charge of the mine or works.

56. NEGLIGENCE CAUSING INJURY.

Every person who is guilty of negligence in or about a mine or works by which a person is injured or killed is guilty of an offence.

57. NOTIFICATION OF CERTAIN ACCIDENTS.

(1) The owner, agent or manager of a mine or works in or about which an accident occurs shall, as soon as he becomes aware of the accident, report it to the nearest inspector, if the accident—

- (a) causes, to a person—
 - (i) loss of life; or
 - (ii) fracture of the skull or of a limb, or other serious bodily injury; or
- (b) causes, to a person employed there, such bodily injury as is likely to render him unfit to return to his ordinary work for a period of 14 days; or
- (c) whether causing bodily injury or not to a person, arises from, or consists in—
 - (i) the explosion of coal dust, gas or an explosive or an explosion due to electricity; or
 - (ii) the fracture of—
 - (A) an essential part of a winding engine, crank shaft, couplings, bearings, gearing, clutch, drum or drum shaft; or
 - (B) a winding rope or attachment of a winding rope to a skip, cage or drum; or
 - (C) a pithead sheave or an axle or bearing of a pithead sheave; or
 - (iii) the failure of—
 - (A) a brake; or
 - (B) a safety catch or an overwinding prevention device, to act or to remain out of action when required respectively to act or to remain out of action; or
 - (C) a depth indicator; or
 - (iv) the derailment of a skip or cage in motion, where it appears to the manager that the derailment might have been caused by the motion exerting an overstrain on the winding rope; or
 - (v) a serious jamming of a skip or cage in a shaft; or
 - (vi) an engine running out of control; or
 - (vii) an overwind; or
 - (viii) an extensive caving or subsidence in any part of the ground or workings; or
 - (ix) a flooding of any portion of the workings; or

- (x) an outbreak or occurrence of fire or an indication of spontaneous combustion in the workings; or
- (xi) any happening the Minister may, by notice in the National Gazette, declare to be a notifiable accident.

(2) The report of the accident shall be—

- (a) in writing and contain a full account of its nature and extent and, so far as they are known, of the causes; and
- (b) where loss of life or serious bodily injury results from the accident, and it is practicable—by telegraph advising the principal facts.

(3) Where loss of life results from the accident, the manager shall immediately notify a coroner.

(4) Where loss of life or serious bodily injury has immediately resulted from an accident, the site of the accident shall be allowed to remain undisturbed until an inspector or, where there is no inspector available, a coroner has an opportunity to visit and view it, unless the manager has reason to believe that further danger will result from so doing.

58. INSPECTOR TO MAKE REPORT AFTER ACCIDENT.

Immediately after the view referred to in Section 57, the inspector or coroner shall make a report of the facts and of any action taken by him to the Chief Inspector who shall take such action as appears to him to be necessary to secure immediately the safety of the mine or works.

59. INSPECTOR TO HOLD INQUIRY.

(1) Where loss of life or serious bodily injury results from an accident in or about any mine or works, an inspector appointed by the Chief Inspector for the purpose shall hold an inquiry into the causes of the accident and shall, when holding the inquiry, have all the powers referred to in Section 15(2).

(2) The inspector shall appoint a time and place for the holding of the inquiry and shall give at least seven days' written notice of the time and place to the owner or agent or the manager of the mine or works in which the accident occurred, and the person to whom the notice is given shall on receipt of the notice post a copy of it in a conspicuous position at the mine or works.

(3) The manager shall be entitled, and the inspector may in his discretion, allow any other person to appear or to be represented at the inquiry.

(4) The inquiry may be adjourned from time to time and from place to place, as the inspector thinks fit.

60. EVIDENCE AT INQUIRY TO BE TRANSMITTED TO MINISTER.

The inspector shall forward to the Chief Inspector for transmission to the Minister—

- (a) a copy of the transcript of the evidence taken at the inquiry; and
- (b) his findings as to the cause of the accident the subject of the inquiry; and
- (c) any recommendations that he thinks fit to make.

61. SUSPENSION OR CANCELLATION OF CERTIFICATE OF COMPETENCY.

(1) If, in the course of an inquiry into an accident, it appears to the inspector that the accident was the result of the negligence or incompetency of a person holding a certificate or permit under this Act, he may call on the person to appear before him and show cause why his certificate should not be suspended or cancelled.

(2) Where the person, called under Subsection (1), is found to be negligent or incompetent, the inspector—

- (a) may order the cancellation or the suspension for the period named in the order, of his certificate or permit; and
- (b) shall forward a copy of the order to the Chief Inspector.

62. INQUEST ON DEATH RESULTING FROM ACCIDENT.

(1) Where at an inquest of death it appears in the course of the inquest that—

- (a) the death might be the result of some accident, whether by explosion or otherwise, occurring in or about a mine or works; and
- (b) no inspector is present at the inquest,

the coroner shall, if in his opinion it is necessary and can be conveniently done, summon an inspector to attend the inquest.

(2) Where, in the absence of an inspector, evidence has been taken that points to the probability of the accident having been due to—

- (a) any negligence on the part of a person having control of, or employed in or about, a mine or part of a mine or works; or
- (b) any defect in or about the mine or works,

the coroner shall notify the Chief Inspector.

63. INSPECTOR MAY EXAMINE WITNESS AT INQUEST.

An inspector present at an inquest concerning a death that is the result of an accident occurring in or about a mine or works, may examine and cross-examine any witnesses giving evidence at the inquest and address the coroner on the evidence.

64. COMPENSATION FOR INJURIES.

(1) Subject to Section 65, if a person employed in or about a mine or works suffers bodily injury or is killed—

- (a) as the result of the negligence of the owner, contractor or tributer of the mine or works, or his agent or agents; or
- (b) owing to the non-observance in the mine or works 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,

the person injured, or his personal representatives, or the personal representatives of the person so killed, may recover from the owner, contractor or tributer of the mine or works, compensation by way of damages as for a tort committed by the owner, contractor or tributer.

(2) In estimating the damages under Subsection (1), regard shall be had to the extent (if any) to which the person injured or killed contributed by any negligence on his own part to the injury or death.

(3) This section does not take away from a 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 law, but the owner, contractor or tributer shall not be liable to pay compensation independently of and also under this Act.

(4) The National Court shall have jurisdiction to hear and determine all claims for compensation under this section, and a Warden's Court shall have jurisdiction to hear and determine claims for compensation under this section not exceeding the sum of K1,000.00.

65. LIMITATION ON PROCEEDINGS FOR COMPENSATION.

(1) Subject to Subsection (2), an action for the recovery of compensation under Section 64 shall not be maintained unless—

- (a) written notice of the injury is given in the prescribed manner to the owner, contractor or tributer within one month immediately after its occurrence; and
- (b) the action is commenced within 12 months immediately after the occurrence of the injury.

(2) The want of, or any defect or inaccuracy in, a notice shall not be a bar to the maintenance of the action in a case in which the Court is satisfied that the owner, contractor or tributer against whom the claim is made has not been prejudiced by the want, defect or inaccuracy where the want, defect or inaccuracy arose from mistake or absence from the country or from any other cause which the Court thinks reasonable.

(3) The notice referred to in Subsection (1) shall be in the prescribed form.

(4) The notice referred to in Subsection (1) shall be served on the owner, contractor or tributer personally or by sending it by post as a registered letter addressed to him at his last known place of abode.

Division 8.***Separate Working of Parts of Mines.*****66. PARTS OF A MINE WORKED SEPARATELY TO BE NOTIFIED.**

Where any two or more parts of a mine are worked separately—

- (a) the owner, agent or manager shall immediately give written notice of the fact to the Chief Inspector; and
- (b) the parts shall be treated for the purposes of this Act as separate and distinct mines.

67. SEPARATE WORKING PARTS MAY BE PROHIBITED.

Where the Chief Inspector is of the opinion that the separate working of any parts of a mine—

- (a) is conducive to the evasion of the provisions of this Act; or
- (b) may hamper the administration of this Act,

he may, by written notice served on the owner, agent or manager of the mine, require that the separate working shall be discontinued and the owner, agent or manager on whom the notice is served shall discontinue the separate working accordingly.

Division 9.***Means of Ingress and Egress.*****68. MEANS OF INGRESS AND EGRESS.**

Subject to Sections 69 and 70, the owner, agent or manager of a mine shall not employ a person in any mine that does not provide—

- (a) two shafts, tunnels or outlets, whether appurtenant to the same mine or not, that—
 - (i) afford communication with every vein, lode or seam at any time being worked and a separate means of ingress to and egress from the mine; and
 - (ii) are not at any point less than 46m distant from each other; and
- (b) a cage operating in guides established and maintained at every shaft or outlet mentioned in Paragraph (a) where the shaft or outlet has a depth exceeding 46m; and
- (c) in the case of any such shaft or outlet having a depth not exceeding 46m and not being provided with the cage mentioned in Paragraph (b)—a ladder which shall be fixed in the shaft or outlet in the prescribed manner.

69. RESTRICTIONS AS TO EMPLOYMENT NOT TO APPLY IN CERTAIN CASES.

Section 68 does not apply to—

- (a) a newly opened mine so far as relates to the employment of not more than 20 persons underground for the purpose of—
 - (i) making a communication between two or more shafts, tunnels or outlets in any new working; or
 - (ii) searching for or proving minerals in any working; or
- (b) a mine during—
 - (i) the making of a shaft, tunnel or outlet; or
 - (ii) the interruption of ingress or egress or of communication within the workings as the result of an accident.

70. CHIEF INSPECTOR MAY GRANT EXEMPTION FROM PROVISIONS RELATING TO SHAFTS, ETC.

(1) Subject to Subsection (2), the Chief Inspector may by order, and on such conditions as are specified in the order, exempt a proved mine from the provisions of Section 68 where—

- (a) the quantity and value of the mineral proved is not sufficient to defray the cost of making more than one shaft, tunnel or outlet or, where more than one shaft, tunnel or outlet has been made, of re-establishing any communication that formerly existed with one or other of the shafts, tunnels or outlets; or
- (b) the workings in a seam having reached the boundary of the mining tenement, it is expedient to remove the safety pillars already formed in the workings in the ordinary course.

(2) No safety pillars shall be removed that will cause interruption of the communication between two or more outlets.

PART IV. – MISCELLANEOUS.

71. CONTRACT IN CONFLICT WITH ACT.

(1) A person shall not by a contract made, before or after the commencement date, be precluded or excused from compliance with the provisions of this Act or of an order made under this Act.

(2) A person shall not, by reason of an act or omission required under the provisions of this Act to be done or omitted by him, be liable to a penalty, damages or forfeiture for a breach of a contract.

72. NOTICE OF CHANGE OF NAME, OWNERSHIP OR MANAGEMENT OF MINE.

(1) Where the name of a mine is changed, the owner, agent or manager of that mine shall, as soon as practicable after that change, give to the Chief Inspector written notice of the change.

(2) Where the ownership of a mine is changed or a different agent or manager is appointed, the new owner or agent or manager, as the case may be, shall as soon as practicable after the change or appointment, give to the Chief Inspector written notice of the change or appointment.

73. DEFENCE AVAILABLE IN PROSECUTION FOR OFFENCE.

Where a person who is charged before a court with a breach of a provision of this Act satisfies the court that compliance with the particular provision was not reasonably practicable, the court shall discharge the person.

74. GENERAL PENALTY.

(1) A person who contravenes a provision of this Act or an order made under this Act is guilty of an offence.

(2) A person who commits an offence against this Act shall, where no other penalty is provided, be liable in respect of the offence to a fine not exceeding K1,000.00 or imprisonment for a term not exceeding three months or both, and, where the offence is a continuing offence, to a fine not exceeding K100.00 for every day during which the offence continues.

75. LIMITATIONS ON PROCEEDINGS FOR OFFENCES.

A prosecution shall not be commenced against a person for an offence against this Act unless it is commenced within six months after the commission of the offence complained of, or, in the case of a continuing offence, within six months after the offence has ceased.

76. SPECIAL RULES.

(1) An inspector may by written notice require the owner, agent or manager of a mine or works to draw up and submit to the Chief Inspector special rules for the conduct and guidance of persons who are in control of, or employed in or about, the mine or works as under the conditions affecting the mine or works seem best calculated to—

- (a) prevent accidents; and
- (b) provide for the safety, convenience and proper discipline of the persons employed in or about the mine or works.

(2) The Chief Inspector may approve of the special rules either as a whole or in part or with such amendments as to him seem proper, and they shall come into operation as the special rules for the mine or works on the date on which they are so approved.

77. SPECIAL EXEMPTION FROM REGULATIONS.

Where an inspector regards the observance of the regulations or any of them as impracticable in a particular mine, he shall make such recommendations to the Chief Inspector as he thinks necessary and the Chief Inspector may, by notice in the National Gazette, exempt the mine from the observance of the regulations, or any of them, for such time and on such conditions as are specified in the notice.

78. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing matters providing for and in relation to—

- (a) the qualifications required of inspectors and regulating the examinations and test to which they shall be subject before and after appointment; and
- (b) the powers and duties of inspectors; and
- (c) the examinations, tests or other conditions on which certificates of competency or permits of employment may be granted to—
 - (i) alluvial miners; and
 - (ii) boiler inspectors; and
 - (iii) dredge masters; and
 - (iv) dredge winchmen; and
 - (v) engine drivers, including drivers of steam, gas, oil or hydraulic engines and of electric motors or electric converters; and
 - (vi) machinery attendants; and

- (vii) managers generally, or particularly in relation to metalliferous mines, collieries or works; and
 - (viii) mine electricians; and
 - (ix) mine surveyors; and
 - (x) underground miners; and
 - (xi) such other classes of persons employed in or about a mine or works who, in the opinion of the Chief Inspector, should be the holders of certificates of competency or permits of employment; and
- (d) the issue, registration, suspension and cancellation of certificates of competency or of permits of employment and inquiries preliminary to their suspension or cancellation; and
 - (e) the appointment and remuneration of persons who are engaged to examine and test the qualifications of a person for a certificate of competency or permit of employment; and
 - (f) the registration of agents and managers including deputy managers; and
 - (g) the procedure of inquiries into accidents; and
 - (h) the prevention of accidents; and
 - (i) the bailing of water from mines, so as to prevent injury from water being caused to any workings; and
 - (j) the protection from injury, destruction and unlawful removal of machinery, and of races, channels, drains or dams and the water contained in them, and from obstruction of any race, channel, drain, dam, creek or river; and
 - (k) the construction and maintenance of suitable bridges or other crossings over races, channels or drains that intersect roads or thoroughfares, and the making of proper approaches to the bridges or other crossings, and the width of the bridges or crossings and approaches; and
 - (l) the maintenance of order and discipline; and
 - (m) the manner in which—
 - (i) surveys of underground or surface workings of mines shall be made; and
 - (ii) plans and sections of the workings shall be made and kept and copies furnished to the Chief Inspector; and
 - (n) the details to be furnished in plans and specifications relating to the construction, alteration or enlargement of dams; and
 - (o) the minimum provision to be made in all, or any particular class of, mines for—

- (i) the supply and maintenance of appliances for use in ambulance and rescue work; and
- (ii) the formation of rescue brigades and the training of employees in ambulance and rescue work; and
- (p) the mode of construction and prescribing materials and strength of the embankments of dams; and
- (q) the treatment to which dams shall be subjected before being abandoned or temporarily left; and
- (r) the mode of construction of waste dumps and the stability of the high wall of any excavation; and
- (s) the minimum provisions for ventilation of mines, including requisites as to—
 - (i) standards of purity, temperature and humidity of the air; and
 - (ii) quantity of air which should be made to circulate in the mine or airways; and
 - (iii) methods of testing the air in relation to the quantity, purity, temperature, humidity and efficiency of circulation; and
 - (iv) recording the state of ventilation in every part of the mine and showing on plans the positions of all airdoors and ventilating devices and appliances and the direction of the air currents; and
 - (v) the conditions under which disused portions of the mine may or shall be shut off from the ventilation system, and when and in what manner they shall be ventilated; and
 - (vi) the conditions under which the use of mechanical appliances to assist ventilation shall be compulsory; and
 - (vii) the use of compressed air; and
 - (viii) the conditions under which tailings from cyanide or other chemical or metallurgical processes may be used for the filling of stopes; and
 - (ix) the prevention of the escape of deleterious gases and fumes from chemical or metallurgical process; and
- (t) the connection to be made between workings for the purposes of ventilation including—
 - (i) the making of other excavations concurrently with shaft sinking; and
 - (ii) the connection of adjoining mines; and
 - (iii) the connection of workings in the same mine; and
 - (iv) any other matter relating to the ventilation of mines; and

- (u) the provisions for winding or raising and lowering of persons and minerals and other materials in a mine, and the testing of the efficiency of ropes, chains, brakes, machines and all winding appliances and gear used in a mine; and
- (v) the removal from any mine of machinery or other appliances used for raising or lowering men in the mine; and
- (w) the provisions to be made for facilitating ingress to and egress from, any mine; and
- (x) the distance at which shafts and other mine workings shall be kept from public and private roads, ways and passages and from private land, dwellings and other buildings; and
- (y) the conditions to be observed in and about mines or works for the preservation of health and the maintenance of sanitation including provision to be made for—
 - (i) the prevention of the accumulation of, and the removal to some convenient place of, sludge, tailings and other waste and refuse matter oozing or flowing from, or connected with, a mining tenement, and of waste water, and the making of channels necessary for the prevention or removal and for otherwise regulating the oozing and flowing, with or without any condition for payment of money or otherwise; and
 - (ii) the prevention and laying of dust, the prevention of the escape of poisonous or deleterious gases and fumes from a chemical or metallurgical process in use in mines or works, and the use of water sprays, atomizers and other damping appliances; and
 - (iii) the use of apparatus for collecting, filtering and preventing the inhalation of dust; and
 - (iv) the prevention of nuisances; and
 - (v) the cleansing and keeping clean of the mine or works; and
 - (vi) the construction and position of all sanitary conveniences and the condition in which they shall be kept; and
 - (vii) change houses and their accommodation, baths, washing appliances, the destruction of old clothes and the drying of clothes and the supply of pure water; and
 - (viii) examination and exclusion of persons infected or suspected to be infected with infectious or transmissible diseases; and
- (z) the protection of persons from injury arising from the handling of dangerous materials and especially in relation to hot furnace products; and
- (za) regulating or prescribing in relation to explosives in or about a mine—

- (i) the construction of magazines; and
- (ii) the method and conditions of storage, handling and transportation; and
- (iii) the testing of explosives before use; and
- (iv) the strength of detonators; and
- (v) the charging and firing of shots; and
- (vi) the interval of time to be observed between the firing or misfiring of a shot and the return of employees to the place where the shot was charged; and
- (vii) the use of fuse; and
- (viii) the removal or destruction, by mechanical or other artificial means, of fumes caused by the firing of shots; and
- (zb) the employment and the periodical medical examination of persons placed in control of winding engines or machinery; and
- (ze) the continuity or intermittency of attendance on electrical motors or other machinery of persons placed in control of them and the terms and conditions on which the attendance will be exempted and on which an exemption from attendance may be suspended or cancelled; and
- (zd) the measures to be taken and the precautions to be observed in relation to the use of electricity and the operation of electrical apparatus and machinery; and
- (ze) the fees to be paid in respect of—
 - (i) applications for certificates of competency and permits of employment; and
 - (ii) examinations and tests, educational or physical, to be made for certificates of competency and permits of employment; and
 - (iii) the filing of documents required to be filed; and
 - (iv) the issue and registration of certificates of competency and permits of employment; and
 - (v) the issue of duplicates of certificates and permits that have been lost; and
 - (vi) the issue of certificates of registration; and
 - (vii) the testing of ropes or other winding gear; and
 - (viii) the testing of boilers; and
 - (ix) the registration of managers and agents; and
- (zf) the employment of labour in mines or works; and

- (zg) the duration of the shifts to be worked in a mine and the intervals between and during the shifts; and
- (zh) the maximum hours of, and intervals in, the continuous employment of—
 - (i) persons in charge of engines the motive power of which is water, steam, air, gas, oil or electricity and that are used in or about a mine or works or for the treatment of the products of a mine; and
 - (ii) a person employed in or about any mine in any other case, subject to exemptions for a case of emergency or for any service which is necessarily continuous; and
- (zi) the safe working of dredges and other excavating devices and of the machinery installed on dredges and such other devices and regulating dredging operations generally; and
- (zj) the form of any application, notice, return, certificate, permit or other document required to be made, given, granted, issued, lodged or filed under the provisions of this Act; and
- (zk) the matters or things which are to be shown in any return required to be made; and
- (zl) the imposition of penalties of fines not exceeding K1,000.00 or imprisonment for terms not exceeding six months for offences against the regulations; and
- (zm) all other matters relating to the regulation or working of mines or works not expressly provided for by this Act.

(2) Regulations made under this Act may be of general application or may be limited to a particular area or restricted in their operation to a specified class of mine or works.

PART V. – TRANSITIONAL.

79. TRANSITIONAL PROVISIONS.

(1) In this section, a reference to an Act includes a reference to a regulation made under that Act.

(2) The purpose of this section is to substitute rights, liabilities, functions and duties under this Act for the rights, liabilities, functions and duties that existed under the repealed Act immediately before the commencement date.

(3) Unless the contrary intention appears in this Act, all things and circumstances created, made, done, issued, given, granted or continued under the repealed Act and existing immediately before the commencement date shall be deemed, subject to Subsection 4, to be the corresponding thing or circumstance under this Act.

(4) Any thing or circumstance deemed to be under this Act by virtue of Subsection (3)–

- (a) shall be subject, to the extent to which it is consistent with this Act, to the same vested, contingent and accrued rights, liabilities and incidents (if any) that applied immediately before the commencement date in relation to or attached to that thing or circumstance under or by virtue of the repealed Act; and
- (b) shall, where it had a term under the repealed Act which was still current at the commencement date, expire on the date it would have expired under the repealed Act had this Act not been made.

80. SAVING AND ADAPTATION OF REGULATIONS UNDER THE REPEALED ACT.

(1) Subject to Subsection (2), all regulations in force under the repealed Act (as in force immediately before the commencement date) immediately before the commencement date shall, except in so far as they are inconsistent with this Act, be deemed to have been made under this Act.

(2) At any time after this Act is certified, the Minister may take whatever action is necessary or desirable to adapt any regulations to which Subsection (1) applies to make them comply with the provisions of this Act.

(3) Any action taken before the commencement date under Subsection (2) takes effect on the commencement date, unless a later date is provided for.