

Mines Act, 1923

4 of 1923

[23 February 1923]

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SCHEDULE 1 :- THE SCHEDULE

Mines Act, 1923

4 of 1923

[23 February 1923]

An Act to amend and consolidate the law relating to the regulation and inspection of mines. WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines; It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Mines Act, 1923.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on the first day of July, 1924.

2. Omitted :-

[Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.]

3. Definitions :-

In this Act, unless there is anything repugnant in the subject or context, -

(a) "agent", when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;

2[* * *];

(b) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(c) "child" means a person who has not completed his 3[eighteenth year];

4[(cc) "day" means a period of twenty-four hours beginning at midnight;]

(d) a person is said to be "employed" in a mine who works under

appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(e) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(f) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine:

Provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals;

(g) "owner", when used in relation to a mine means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine or is merely the proprietor of the 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; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(h) "prescribed" means prescribed by regulations, rules or bye-laws;

5[(i) "qualified medical practitioner" means any person registered under the Medical Council Act, 1973, and includes any person declared by the Government by notification in the official Gazette to be a qualified medical practitioner for the purposes of this Act;]

(j) "regulations" "rules" and "bye-laws" means respectively regulations, rules and bye-laws made under this Act;

6[(jj) where work of the same kind is carried out by two or more sets workers working during different periods of the day, each of such sets is called a relay;]

(k) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced

absence of the injured person from work for a period exceeding twenty days; and

(l) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

CHAPTER 2 INSPECTORS

4. Chief Inspector And Inspectors :-

(1) The Government may, by notification in the official Gazette, appoint a duly qualified person to be Chief Inspector of Mines for the whole of Bangladesh 7[* * *] and duly qualified persons to be Inspectors of Mines subordinate to Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such officer who is or becomes directly or indirectly interested in any mine or mining rights in Bangladesh.

(3) The District Magistrate may exercise the powers and perform the duties of Inspector subject to the general or special orders of the Government:

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the 8[Penal Code].

5. Functions Of Inspectors :-

(1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of miners, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

6. Powers Of Inspectors Of Mines :-

The Chief Inspector and any Inspector may-

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants(if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

7. Powers Of Special Officer To Enter, Measure, Etc :-

Any person in the service of the 9[Republic] duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, leveling or measuring in any mine, after giving not less than three days notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine.

8. Facilities To Be Afforded To Inspectors :-

Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

9. Secrecy Of Information Obtained :-

(1) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the Inspector of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential, and shall not be disclosed to any person other than a Magistrate or an official superior or the owner, agent or manager of the mine concerned, unless the Chief Inspector or the Inspector considers disclosure

necessary to ensure the safety of any persons.

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses contrary to the provisions of sub-section (1), any such information as aforesaid without the consent of the Government, he shall be guilty of a breach of official trust, and shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Government.

CHAPTER 3 MINING BOARDS AND COMMITTEES

10. Mining Boards :-

(1) The Government may constitute for any part of Bangladesh 10[* * *], for any group or class of mines, a Mining Board consisting of-

(a) a person in the service of the 11[Republic], not being the Chief Inspector or a Inspector, nominated by the Government to act as Chairman;

(b) the Chief Inspector or an Inspector;

(c) a person, not being the Chief Inspector or an Inspector, nominated by the Government;

(d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;

(e) two persons to represent the interest of miners, who shall be nominated in accordance with the following provisions:-

(i) if there are one or more registered trade unions having in the aggregate as members not less than one quarter of the miners, the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed;

(ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as member not less than 1,000 miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Government;

(iii) if neither sub-clause (i) nor sub-clause (ii) is applicable, the said persons shall be nominated by the Government.

Explanation- In this clause 12[miner] means a person employed otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

(2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

11. Committees :-

(1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of-

(a) a chairman nominated by the Government or by such officer or authority as the Government may authorise in this behalf;

(b) a person nominated by the Chairman and qualified by experience to dispose of question referred to the Committee; and

(c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Government to represent the interests of the persons employed in the mine.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Government.

(5) On receiving such report the Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(6) The Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses or the inquiry including such remuneration.

12. Powers Of Mining Boards :-

(1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the 13[Penal Code].

13. Recovery Of Expenses :-

The Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the Magistrates jurisdiction belonging to such owner or agent.

CHAPTER 4 MINING OPERATIONS AND MANAGEMENT OF MINES

14. Notice To Be Given Of Mining Operations :-

The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

15. Managers :-

(1) Save as may be otherwise prescribed, every mine shall be

under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

(2) If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

16. Duties And Responsibilities Of Owners, Agents And Managers :-

(1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves-

(a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and

(b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and

(c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defense in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER 5 PROVISIONS AS TO HEALTH AND SAFETY

17. Conservancy :-

There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such

supply of water fit for drinking, as may be prescribed.

18. Medical Appliances :-

At every mine in respect of which the Government may, by notification in the official Gazette, declare this section to apply, such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

19. Powers Of Inspectors When Causes Of Danger Not Expressly Provided Against Exist Or When Employment Of Persons Is Dangerous :-

(1) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

14[(1A) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, in any area to which the Government may by notification in the official Gazette declare that this sub-section applies, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire, and the provisions of sub-sections (3), (4), (5) and (6) shall apply to an order made this sub-section as they apply to an order made under sub-section (2)].

(2) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(4) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the Government and shall inform the owner, agent or manager of the mine that such report has been so made.

(5) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (2), or sub-section (3), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Government which shall refer the same to a committee.

(6) Every requisition made under sub-section (1), or order made under sub-section (2), or sub-section (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision of the objection.

(7) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.

20. Notice To Be Given Of Accidents :-

(1) When any accident occurs in or about a mine causing loss of life of serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the

owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

(2) The Government may, by notification in the official Gazette, direct that accidents other than those specified in sub-section (1) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours, shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1).

(3) A copy of the entries in the register referred to in sub-section (2) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.

21. Power Of Government To Appoint Court Of Inquiry In Cases Of Accidents :-

(1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the 15[Penal Code].

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

CHAPTER 6 HOURS AND LIMITATION OF EMPLOYMENT

22. Publication Of Reports :-

The Government may cause any report submitted by a Committee under section 11 and shall cause every report submitted by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit.

22A. Weekly Day Of Rest :-

No person shall be allowed to work in mine on more than six days in any one week.

22B. Hours Of Work Above Ground :-

(1) A person employed above ground in a mine shall not be allowed to work for more than fifty-four hours in any week or for more than ten hours in any day.

(2) The periods of work of any such person shall be so arranged that, along with his intervals for rest they shall not in any day spread over more than twelve hours, and that he shall not work for more than six hours before he has had an interval for rest of at least one hour.

(3) Persons belonging to two or more relays shall not be allowed to do work of the same kind above ground at the same moment:

Provided that for the purposes of this sub-section persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

22C. Hours Of Work Below Ground :-

(1) A person employed below ground in a mine shall not be allowed to work for more the nine hours in any day.

(2) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than nine hours in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than nine hours.

(3) No person employed in a mine shall be allowed to be in any part of the mine below ground except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 28.

22D. Special Provision For Night Relays :- .

Where a worker works in a relay whose period of work extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day.

23. Prohibition Of Employment Of Certain Persons :-

No person shall be allowed to work in mine who has already been working in any other mine within the preceding twelve hours.

23A. Repealed :-

23A. [Repealed by section 8 of the Indian Mines (Amendment) Act, 1935 (Act No. V of 1935).

23B. Notices Regarding Hours Of Works :-

(1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay. The notice shall also state the time of the commencement and of the end of the intervals for rest fixed for persons employed above ground. A copy of each such notice shall be sent to the Chief Inspector, if he so requires.

(2) In the case of a mine at which mining operations commence after the 14th day of April, 1930, the notice referred to in subsection (1) shall be posted not less than seven days before the commencement of work.

(3) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any relay or in the rest intervals fixed for persons employed above ground an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.

(4) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).

23C. Limitation Of Hours Of Work For Females :-

No female shall be allowed to work in a mine either below ground or above ground between the hours of 7 P. M. and 6 A. M.

24. Supervising Staff :-

Nothing in section 22B, section 22C, section 23, sub-section (4) of section 23B, or in section 23C shall apply to persons who may by rules be defined to be persons holding responsible positions of a managerial or technical character or employed in health and welfare services or employed in any confidential capacity.

25. Exemption From Provisions Regarding Employment :-

In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of section 22A, section 22B, section 22C, section 23 or sub-section (4) of section 23B on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

26. Children :-

No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

26A. Young Persons Not To Be Allowed Underground Without Certificates Of Fitness :-

No person who has not completed his 20[eighteenth year] shall be employed in any part of mine, unless-

(a) a certificate of fitness in the prescribed form and granted to him by a qualified medical practitioner is in the custody of the manager

of the mine, and

(b) he carries while at work a token giving a reference to such certificate.

26B. Limitation Of Working Hours For Young Persons :-

No person who has not completed his 22[eighteenth year] shall be permitted to work in any part of a mine, either below ground or above ground, unless the hours of work of such person for any day are so fixed as to allow an interval of rest of at least twelve consecutive hours which shall include at least such seven consecutive hours between the hours of 7 P. M. and 7 A. M. as may be prescribed:

Provided that nothing in this section shall apply to any such person while employed or permitted to work in any mine as an apprentice or for the purposes of receiving vocational training, in such circumstances and in accordance with such conditions as may be prescribed.

27. Disputes As To Age :-

(1) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child or has not completed his 23[eighteenth year], the question shall, in the absence of certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

28. Register Of Employees :-

(1) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing, in respect of each such person, -

(a) name, date of birth and the nature of his employment,

(b) the periods of work fixed for him,

(c) the intervals for rest, if any, to which he is entitled,

(d) the days of rest to which he is entitled, and
(e) where work is carried on by a system of relays, the relay to which he belongs.

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(4) For every mine to which the Government may, by general or special order, declare this sub-section to be applicable, there shall be kept in the prescribed form and place a register which shall show at any moment the name of every person then working below ground in the mine.

CHAPTER 7 REGULATIONS RULES AND BYE-LAWS

29. Power Of Government To Make Regulations :-

The Government may, by notification in the official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely:-

(a) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector;

(b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;

(d) for prescribing the qualifications of managers of mines and of persons acting under them;

(e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;

(h) for providing for the making of inquiries into charges of

- misconduct or in competency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;
- (i) for regulating, subject to the provisions of the Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives;
 - (j) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;
 - (k) for providing for the safety of the persons employed in a mine, their means of entrance therein to and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidence;
 - 24[(kk) for prohibiting the employment in a mine either as manager or in any other specified capacity of any persons except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;]
 - (l) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
 - (m) for providing for and regulating the ventilation of mines and the action to be taken in respect of dust and noxious gases;
 - (n) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signaling purposes;
 - (o) for requiring and regulating the use of safety lamps in mines;
 - (p) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom, and for prohibiting, restrictions or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines;
 - (q) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
 - (r) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans

are to be kept for purposes of record;

(s) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;

(t) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14; and

(u) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty years of any railway subject to the provisions of the Railways Act, 1890, or of any public work or classes of public work which the Government may, by general or special order, specify in this behalf.

30. Power Of Government To Make Rules :-

The Government may, by notification in the official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:-

(a) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards;

25[(aa) for prescribing the form of the register referred to in sub-section (2) of section 20;]

(b) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;

26[(bb) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age

of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women ordinarily employed in the mine, the number and standards of such rooms, and the nature and extent of the supervision to be provided therein;]

27[(bbb) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;]

(c) for prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

28[(cc) for prescribing the forms of notices required under section 23B, and for requiring such notices to be posted also in specified vernaculars;]

29[(ccc) to fix seven consecutive hours between 7 P. M. and 7 A. M. for the purposes of section 26B;

(cccc) to specify the circumstances in which and conditions in accordance with which a young person may be employed or permitted to work as an apprentice or for the purposes of receiving vocational training in a mine for the purposes of the proviso to section 26B;]

(d) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervisions or management or employed in a confidential capacity;

(e) for prohibiting the employment in mines of persons of any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year], and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

30[(ee) for prescribing the form of the certificates of fitness required by section 26A and the circumstances in which such certificates may be granted and revoked;]

(f) for prescribing the form of registers required by section 28.

(g) for prescribing abstracts of this Act and of the regulations and rules and the vernacular in which the abstracts and bye-laws shall be posted as required by sections 32 and 33;

(h) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public;

(i) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in Government or any local authority 31[* * *];

(j) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports; the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted; and

(k) generally to provide for any matter not provided for by this Act

or the regulations, provision for which is required in order to give effect to this Act.

30A. Power Of Government To Require Rescue Stations To Be Established :-

The Government may, by notification in the official Gazette, make rules under this section-

(a) requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;

(b) providing for management of central rescue stations, and regulating the constitution powers and functions of, and the conduct of business by, the authorities which shall include representatives of the owners and managers of, and of the miners employed in, the mines or group of mines concerned charged with such management;

(c) prescribing the position, equipment, control maintenance and functions of central rescue stations;

(d) providing for the levy and collection of a duty of excise (at a rate not exceeding 33[three poisha] per ton), on coke and coal produced in and dispatched from mines specified under clause (a) in any group or included under clause (a) in any specified area, the utilisation of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds.

(e) providing for the formation, training, composition, and duties of rescue brigades; and

(f) providing generally for the conduct of rescue work in mines.

31. Prior Publication Of Regulations And Rules :-

(1) The power to make regulations and rules conferred by sections 29, 30 and 30A is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation is published under this

section it shall be referred to every Mining Board constituted in Bangladesh, which is, in the opinion of the Government concerned with the subject dealt with by the regulation; and the regulation shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

34[(3A) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the part of Bangladesh affected by the rule, and unless each Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.]

(4) Regulations and rules shall be published in the official Gazette, and, on such publication, shall have effect as if enacted in this Act.

(5) The provisions of sub-sections (1), (2) and (3A) shall not apply to the first occasion on which rules referred to in clause (bb) or clause (bbb) of section 30 are made.

31A. Power To Make Regulations Without Previous Publication :-

Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 31, regulations under clause (i) and clauses (k) to (s) inclusive of section 29 may be made without previous publication and without previous reference to Mining Boards, if the Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made shall not remain in force for more than two years from the making thereof.

32. Bye-Laws :-

(1) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for control and guidance of persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager-

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or
(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,
the Chief Inspector or Inspector may -

(i) propose a draft of such bye-laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Government may, by general or special order, appoint in the this behalf.

(4)(a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Government for approval.

(b) The Government may make such modifications of the draft bye-laws as it thinks fit.

(c) Before the Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Government.

(d) Every objection shall be in writing and shall state -

(i) the specific grounds of objection, and

(ii) the omissions, additions or modifications asked for.

(e) The Government shall consider any objection made within the

required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in 36[Bengali], to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable dispatch.

(6) The Government may, by order writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

33. Posting Up Of Extracts From Act, Regulations, Etc :-

There shall be kept posted up at or near every mine in English and in 37[Bengali], the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER 8 PENALTIES AND PROCEDURE

34. Obstruction :-

(1) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility or making any entry inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred taka, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred taka.

35. Falsification Of Records, Etc :-

Whoever-

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit of false certificate, or

(c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred taka, or with both.

36. Omission To Furnish Plans, Etc :-

Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner of at or within the prescribed time any plan, return, notice register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred taka.

37. Contravention Of Provisions Regarding Employment Of Labour :-

Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred taka.

38. Notice Of Accidents :-

(1) Whoever, in contravention of the provisions of sub-section (1) of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with

fine which may extend to five hundred taka, or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred taka, or with both.

(2) Whoever in contravention of a direction made by the Government under sub-section (2) of section 20 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with fine which may extend to five hundred taka.

39. Disobedience Of Orders :-

Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand taka, and, in the case of a continuing contravention, with a further fine which may extend to one hundred taka for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

40. Contravention Of Law With Dangerous Results :-

(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand taka, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand taka, or with both or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred taka, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (1).

(3) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence fine passed under this section may when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided, that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented before the decision of the appeal.

41. Prosecution Of Owner, Agent Or Manager :-

No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector.

42. Limitation Of Prosecutions :-

No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

43. Cognizance Of Offences :-

No Court inferior to that of a Magistrate of the 1st class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

44. Reference To Mining Board Or Committee In Lieu Of Prosecution In Certain Cases :-

(1) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Government with a view to such reference being made.

(2) On receipt of report under sub-section (1), the Government may refer the case to a Mining Board or a Committee, or may direct the court to proceed with the trial.

CHAPTER 9 MISCELLANEOUS

45. Decision Of Question Whether A Mine Is Under This Act :-

If any question arises as to whether any excavation or working is a

mine within the meaning of this Act, the Government may decide the question, and a certificate signed by a Secretary to the Government shall be conclusive on the point.

46. Power To Exempt From Operation Of Act :-

(1) The Government may, by notification in the official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine of group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all other provisions of this Act:

Provided further that no exemption from the operation of the provisions of section 23C shall be granted unless, in the case of an emergency, the national interest so requires and the employers and workers organizations concerned have been consulted.

(2) [Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.]

47. Power To Alter Or Rescind Orders :-

The Government may reverse or modify any order passed under this Act.

48. Application Of Act To Government Mines :-

The Act shall apply to mines belonging to the Government.

49. Saving :-

No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

50. Repealed :-

50. [Repealed by section 2 and Schedule of the Repealing Act, 1927 (Act No. XII of 1927).]

SCHEDULE 1

THE SCHEDULE

ENACTMENTS REPEALED Rep. by the

Repealing Act, 1927 (XII of 1927), s.2 and Schedule

