

THE MINES ACT.

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THE MINES ACT.

[INDIA ACT IV, 1923.] (1st July, 1924.)

CHAPTER I.

PRELIMINARY.

1. * * *

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby Regulation.

Saving of
Upper
Burma Ruby
Regulation.

Definitions.

3. 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 ;
- (b) “Chief Inspector” means the Chief Inspector of Mines appointed under this Act ;
- (c) “child” means a person who has not completed his fifteenth year ;
- (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 licence 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 ;
- (i) “qualified medical practitioner” means any person registered under the Medical Act, 1858, or any Act amending the same or under the Burma Medical Act or any Act of any Legislature in India or Pakistan providing for the maintenance of a register of medical practitioners ;

21 and 22
Vict.,
c. 90.

- ¹ (ii) "recognized general holiday" means a day (other than a Sunday) agreed by custom or by written agreement between employers and work-people concerned to be a general holiday either for a whole establishment or for a particular grade or class of workers;
- (j) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;
- (jj) where work of the same kind is carried out by two or more sets of 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 II.

INSPECTORS.

4. (1) The President of the Union may, by notification in the Gazette, appoint a duly qualified person to be Chief Inspector of Mines for the whole of the Union of Burma, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector. Chief Inspector and Inspectors.

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

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

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 Penal Code.

5. (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 Functions of Inspectors.

¹ Inserted by Act XLVII, 1948.

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 mines, 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.

Powers of
Inspectors
of Mines.

6. 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.

Powers of
special officer
to enter,
measure, &c.

7. Any person in the service of the Government duly authorized by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling 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.

Facilities to
be afforded
to
Inspectors.

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

Secrecy of
information
obtained.

9. (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 inspection of any mine under this Act, or acquired by any person authorized under section 7 in the exercise of his duties thereunder, shall be regarded as confidential.

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1), discloses to any one other than a Magistrate or an officer to whom he is subordinate any such information as aforesaid without

the consent of the President of the Union, 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 on complaint made by order of or under authority from the President of the Union, or made by a person aggrieved by the offence.

CHAPTER III.

MINING BOARDS AND COMMITTEES.

10. (1) The President of the Union may constitute for the Union of Mining Boards, Burma, or for any part of the Union of Burma, or for any group or class of mines in the Union of Burma, a Mining Board consisting of—

- (a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the President of the Union 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 President of the Union;
- (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 members 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 President of the Union;
 - (iii) if neither sub-clause (i) nor sub-clause (ii) is applicable, the said persons shall be nominated by the President of the Union.

Explanation.—In this clause “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 President of the Union 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.

Committees. **11.** (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 President of the Union or by such officer or authority as the President of the Union may authorize in this behalf;
- (b) a person nominated by the chairman and qualified by experience to dispose of the 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 President of the Union 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 President of the Union.

(5) On receiving such report the President of the Union 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 President of the Union may proceed to review such decision and to pass such orders in the matter as he 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 President of the Union 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 expenses of the inquiry including such remuneration.

Powers of
Mining
Boards and
Committees.

12. (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 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 Penal Code.

13. The President of the Union 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 Magistrate's jurisdiction belonging to such owner or agent.

Recovery of expenses.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

14. The owner, agent or manager of a mine shall, 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.

Notice to be given of mining operations.

15. (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.

Managers.

(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. (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.

Duties and responsibilities of owners, agents and managers.

(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 defence 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 V.

PROVISIONS AS TO HEALTH AND SAFETY.

Conservancy. 17. 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.

Medical appliances. 18. At every mine in respect of which the President of the Union may, by notification in the 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.

Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous. 19. (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.

(2) If the Chief Inspector, or an Inspector authorized 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 President of the Union 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 the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the President of the Union, who 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 on the objection.

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

20. (1) When any accident occurs in or about a mine causing loss of life or 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.

Notice to be given of accidents.

(2) The President of the Union may, by notification in the 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. (1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the President of the Union, if he 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.

Power of President to appoint Court of inquiry in cases of accidents.

(2) The person appointed to hold any such inquiry shall have all the powers of a civil Court under the Code of Civil Procedure 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 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 President of the Union 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.

Publication
of reports.

22. The President of the Union 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 he may think fit.

CHAPTER VI.

HOURS AND LIMITATION OF EMPLOYMENT.

Weekly day
of rest.

22A. No person shall be allowed to work in a mine on more than six days in any one week.

Hours of
work above
ground.

22B. (1) A person employed above ground in a mine shall not be allowed to work for more than [forty-four]¹ hours in any week or for more than [eight]¹ 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 [ten]¹ hours, and that he shall not work for more than [five]¹ 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.

Hours of
work below
ground.

22C. ¹(1) A person employed below ground in a mine shall not be allowed to work for more than forty hours in any week or for more than eight 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 [eight]¹ 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 [eight]¹ 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.

¹ Substituted by Act XLVII, 1948.

22D. 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.

Special provision for night relays.

23. No person shall be allowed to work in a mine who has already been working in any other mine within the preceding [fourteen]¹ hours.

Prohibition of employment of certain persons.

23A. * * *

23B. (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 * * * 2.

Notices regarding hours of work.

(2) In the case of a mine at which mining operations commence after the 14th day of April, 1930, the notice referred to in sub-section (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).

3 23C. Notwithstanding anything contained in sub-section (1) of sections 22B and 22C, a person employed above or below ground in a mine engaged in a process which, for technical reasons, is required to be carried on continuously throughout the day may be allowed to work for forty-eight hours in any week.

Hours of work for technical reasons.

3 23D. (1) Subject to the control of the President of the Union, the Chief Inspector may, by written order, grant suitable exemptions from the maximum weekly hours prescribed under section 22B, 22C or 23C in cases in which he considers such exemptions necessary in the interest of the rehabilitation of the mines.

Exemptions from maximum weekly hours.

(2) Any exemption given under sub-section (1) in respect of weekly hours of work shall be subject to a maximum limit of fifty-four hours per week.

(3) An order under sub-section (1) shall remain in force for such period as it may specify, but in no case for more than two months at a time from

¹ Substituted by Act XLVII, 1948.

² Deleted *ibid.*

³ Inserted *ibid.*

the date on which notice thereof is given to the owner, agent or manager of the mine.

Conditions
for employ-
ment in
mine on a
Sunday.

¹ 23E. (1) No person shall be employed to work in a mine on a Sunday unless—

- (a) he has had or will have one whole day of rest on one of the three days immediately before or after that Sunday, and
- (b) the owner, agent or manager of the mine has before that Sunday or the substituted day of rest, whichever is earlier—
 - (i) delivered a notice in writing to the office of the Inspector of his intention to require the worker to work on that Sunday which shall also specify the substituted day of rest, and
 - (ii) displayed a notice to that effect in the mine at least twenty-four hours before the opening hour of the mine on that Sunday or on the substituted day of rest:

Provided that no such substitution of the day of rest shall be made, which will result in any worker working for more than ten days consecutively without having one whole day of rest.

(2) A notice given under sub-section (1) may be cancelled by a subsequent notice delivered to the office of the Inspector, and a notice displayed in the mine may be cancelled not later than the day before the Sunday or the substituted day of rest, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on a Sunday, that Sunday shall, for the purpose of calculating his weekly hours of work, be included in the week in which he enjoys a substituted day of rest.

Rate of pay
in respect of
overtime
worked.

¹ 23F. (1) Where a worker in a mine works for more than the normal hours prescribed by section 22B, 22C or 23C, he shall be entitled in respect of the overtime worked to pay at the rate of twice his ordinary rate of pay.

(2) Where a worker in any mine works on a recognized general holiday, he shall be entitled, in respect of the time so worked, to pay at the rate of twice his ordinary rate of pay.

(3) Where any workers are paid on a piece rate basis, the Government, in consultation with the owner, agent or manager of the mine concerned, may, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of pay of those workers for the purposes of this section.

(4) The Government may prescribe the registers that shall be maintained in a mine for the purpose of securing compliance with the provisions of this section.

¹ Inserted by Act XLVII, 1948.

24. Nothing in section 22A, section 22B, section 22C, section 23, or sub-section (4) of section 23B [or section 23C, section 23D, section 23E or section 23F]¹ shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity. Supervising staff.

25. 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 [and section 23F]¹ permit persons to be employed in contravention of section 22A, section 22B, section 22C, section 23, or sub-section (4) of section 23B, [section 23C or section 23E]¹ on such work as may be necessary to protect the safety of the mine or of the persons employed therein : Exemption from provisions regarding employment.

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager [to be placed before the Inspector at his next inspection of the mine and a copy of such record shall be sent immediately to the Chief Inspector for his information].²

³ 26. (1) No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground. Children and women.

(2) No woman shall be permitted to enter for purposes of employment, or be employed, in the underground workings of any mine :

Provided that this sub-section shall not apply to women employed in health and welfare services.

(3) No woman shall be permitted to enter or remain in the underground workings of any mine unless she is in possession of a pass granted by the manager of the mine.

Explanation.—"Underground workings" means any part of a mine situated beneath the superjacent ground, and includes vertical shafts provided for access to, or for the ventilation of, such part ; but does not include tunnels made and used only for convenience in disposing of spoil.

26A. No person who has not completed his [eighteenth]² year shall be allowed to be present in any part of a mine which is below ground unless— Young persons not to be allowed underground without certificates of fitness.

(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.

27. (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 [eighteenth]² year the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner Disputes as to age.

¹ Inserted by Act XLVII, 1948.

² Substituted *ibid.*

³ Substituted by Act XL, 1949, which came in to force on 1st August 1949.

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.

Register of
employees.

28. (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) 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.

¹(4) For every mine in which workers are employed below ground 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 VII.

REGULATIONS, RULES AND BYE-LAWS.

Power of
President to
make re-
gulations.

29. The President of the Union may, by notification in the 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

¹ Substituted by Act XLVII, 1948.

- 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 incompetency 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 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, [* * * *]¹ 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 thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences ;
 - (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 signalling 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, restricting 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 ;

¹ Deleted by Act XL, 1949.

- (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 yards of any railway subject to the provisions of the Railways Act, or of any public work or classes of public works which the President of the Union may, by general or special order, specify in this behalf.

Power of
President to
make rules,

30. The President of the Union may, by notification in the 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 ;
- (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 ;
- (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 ;
- (cc) for prescribing the forms of notices required under section 23B, and for requiring such notices to be posted also in specified vernaculars ;
- (d) for defining the persons who shall, for the purpose of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity ;
- (e) for prohibiting the employment in mines of persons or 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 ;
- (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 the State¹ or any local authority or railway company as defined in the Railways Act ;
- (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. The President of the Union may, by notification in the Gazette, make regulations under this section—

- (a) requiring groups of specified mines to establish central rescue stations ;
- (b) prescribing the position, equipment, control, maintenance and functions of such rescue stations ;
- (c) providing for the allocation of the cost of maintenance and upkeep thereof among mines served by such stations, and for the recovery from owners or agents of mines of sums payable on account of such cost ; and
- (d) providing for the formation, training and duties of rescue brigades.

Power of President to require rescue stations to be established.

31. (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.

Prior publication of regulations and rules.

(2) The date to be specified in accordance with the Burma General Clauses Act, 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 the Union of Burma which is, in the opinion of the President of the Union, concerned with the subject dealt with by the regulation, and the regulation shall not be so

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

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.

(3A) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the Union of Burma affected by the rule, and unless 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.

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

Power to
make re-
gulations
without
previous
publication.

31A. 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 President of the Union 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.

Bye-laws.

32. (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 the control and guidance of the 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 President of the Union may, by general or special order, appoint in 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 President of the Union for approval.

(b) The President of the Union may make such modification of the draft bye-laws as he thinks fit.

(c) Before the President of the Union approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the President of the Union 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 President of the Union.

(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 President of the Union shall consider any objection made within the required time by or on behalf of persons appearing to him 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 he thinks fit.

(5) The bye-laws, when so approved by the President of the Union, 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 Burmese and in such other language or languages]¹ as may be prescribed, 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 despatch.

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

33. There shall be kept posted up at or near every mine, [in Burmese and in such other language or languages]¹ as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

Posting up
of extracts
from Act,
regulations,
etc.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948,

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Obstruction.

34. (1) Whoever obstructs the Chief Inspector, an Inspector or any person authorized 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 for making any entry, inspection, examination or inquiry authorized 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 rupees, 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 rupees.

Falsification
of records,
etc.**35. 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 or 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 rupees, or with both.

Omission to
furnish
plans, etc.

36. 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 or 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 rupees.

Contraven-
tion of pro-
visions
regarding
employment
of labour.

37. 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 rupees.

38. (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 rupees, 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 rupees, or with both. Notice of accidents,

(2) Whoever, in contravention of a direction made by the President of the Union 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 rupees.

39. 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 rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction. Disobedience of orders.

40. (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 rupees, 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 rupees, 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 rupees, or with both. Contravention of law with dangerous results.

(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 of 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. 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 authorized in this behalf by general or special order in writing by the Chief Inspector. Prosecution of owner, agent or manager.

Limitation
of prosecu-
tions.

42. 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.

Cognizance
of offences.

43. No Court inferior to that of a Magistrate of the first 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.

Reference to
Mining
Board or
Committee
in lieu of
prosecution
in certain
cases.

44. (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 President of the Union with a view to such reference being made.

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

CHAPTER IX.

MISCELLANEOUS.

Decision of
question
whether a
mine is under
this Act.

45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the President of the Union may decide the question, and a certificate signed by a Secretary to the Government shall be conclusive on the point.

Power to
exempt from
operation of
Act.

46. (1) The President of the Union may, by notification in the Gazette exempt either absolutely or subject to any specified conditions, any local area or any mine or 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 the other provisions of this Act.

(2) * * * *

Power to
alter or
repeal
orders.

47. The President of the Union may reverse or modify any order passed under this Act by any authority subject to his control.

Application
of Act to
State
mines.
Saving.

48. This Act shall apply to mines belonging to the State.¹

49. 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.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.