

No. 27, 1956.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain uneven numbered pages as the other language is printed on even numbered pages.

ACT

To consolidate and amend the laws relating to the operating of mines and works and of machinery used in connection therewith.

(Afrikaans text signed by the Governor-General.)
(Assented to 2nd May, 1956.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. In this Act, unless the context otherwise indicates— Definitions.
- (i) "boiler" means any apparatus, with all its fittings and appurtenances, adapted to convert any liquid continuously into steam or vapour of a higher pressure than that due to the atmosphere, and includes any super-heater, economizer and steam accumulator, with all their fittings and appurtenances, and where any such apparatus consists of two or more parts, each of which is capable of being adapted for use as a separate boiler by the mere closing of a valve, means each of such parts with all its fittings and appurtenances; (xvii)
 - (ii) "engine" means any appliance or combination of appliances by which power, other than man or animal power, can be applied to do mechanical work; (v)
 - (iii) "Government Mining Engineer" means the Government Mining Engineer appointed under section six of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908 of the Transvaal); (xvi)
 - (iv) "inspector" includes a chief inspector, deputy inspector and an assistant inspector; (vii)
 - (v) "inspector of explosives" means an inspector of explosives appointed under sub-section (1) of section three of the Explosives Act, 1911 (Act No. 8 of 1911); (x)
 - (vi) "inspector of machinery" means an inspector appointed as such under section six of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908 of the Transvaal); (viii)
 - (vii) "inspector of mines" means an inspector appointed as such under section six of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908 of the Transvaal); (ix)
 - (viii) "machinery" means any engine, boiler or appliance or combination of appliances which is used or intended to be used for generating, developing, receiving, storing, converting, transforming or transmitting any form of power or energy, or for conveying persons, material or mineral, and which is situated at a mine or works and used or intended to be used in connection with operations at, and pertaining to, such mine or works; (xi)
 - (ix) "mine" means any excavation in the earth, whether abandoned or being worked, made for the purpose of searching for or winning any mineral, and any place where any mineral deposit is being worked, but if two or more such excavations or places are being worked in conjunction with one another, they shall be deemed to constitute one mine, unless the Government Mining Engineer notifies the owner thereof in writing that such excavations or places shall constitute two or more mines, and any place at or near a mine where any building, construction, dump, dam, machinery or appliance is used or intended to be used by the owner of the mine for any of the following purposes, or for any purpose necessary or incidental thereto, shall form part of such mine:
 - (a) searching for or winning a mineral;
 - (b) crushing, reducing, dressing, concentrating or smelting a mineral;

- (c) producing a product of commercial value, other than a clay or earthenware product or cement, from a mineral; or
- (d) extracting, concentrating or refining any constituent of a mineral; (xiii)
- (x) "mineral" means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth and having been formed by or subjected to a geological process, but does not include water and soil unless they are taken from the earth for the production, or extraction, therefrom of a product of commercial value; (iii)
- (xi) "Minister" means the Minister of Mines; (xii)
- (xii) "owner", in relation to a mine, works or machinery, includes the lessee of the mine, works, machinery or any part thereof, and a tributor for the working of the mine or any part thereof, but does not include a person who owns only rights to the surface of the land on which a mine, works or machinery is situate; (iv)
- (xiii) "regulation" means a regulation made or in force under this Act; (xiv)
- (xiv) "Sunday", "Christmas Day" or "Good Friday" means the period from twelve o'clock midnight on the day previous to any such day to twelve o'clock midnight on such day; (xv)
- (xv) "this Act" includes the regulations; (vi)
- (xvi) "workings" means any excavation of a mine made or being made for the purpose of searching for or winning minerals; (ii)
- (xvii) "works" means any place, not being a mine or part of a mine, where any of the following operations and any operation necessary or incidental thereto are carried out and constitute the main operation at such place—
 - (a) the crushing, screening, washing, classifying or concentrating of any mineral;
 - (b) the treating of any mineral, in the form obtained from a mine, for the production of coke or for the production of a base metal in any shape or form, including ingots, billets and rolled sections;
 - (c) the working and treating of any mine tailings deposit or mine dump for the recovery of any valuable content thereof;
 - (d) the extracting of any precious metal from any mineral or concentrate;
 - (e) the refining of any precious metal;
 - (f) the drying or calcining of any prescribed material as defined in the Atomic Energy Act, 1948 (Act No. 35 of 1948);
 - (g) the generating of any form of power and the transmitting and distributing thereof to the terminal point of bulk supply to any consumer or, where the supply is not in bulk, to the power supply meter on the consumer's premises, provided more than fifty per cent of the power generated is used or intended to be used in connection with a mine;
 - (h) the transmitting and distributing of any form of power from a generating source, other than a generating source contemplated in paragraph (g), to any mine, if any of the power supplied to the mine is used for winding, pumping or ventilating purposes;
 - (i) the transmitting and distributing, to any other consumer, of any form of power from a mine by the owner thereof to the terminal point of bulk supply or, where the supply is not in bulk, to the power supply meter on such consumer's premises;
 - (j) the conserving of water in any dam or reservoir, and the distributing thereof, if more than fifty per cent. of the water distributed from such dam or reservoir is used in connection with any operation at and pertaining to a mine or a place referred to in paragraph (a), (b), (c), (d), (e), (f) or (g), but excluding the conserving and distributing of water by a public utility undertaking or a local authority; or
 - (k) the manufacturing of explosives for use in mines. (i)

2. The Government Mining Engineer and, subject to his directions, inspectors of mines, inspectors of machinery, inspectors of explosives and other officers appointed by the Governor-General under section *six* of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908 of the Transvaal), shall exercise supervision over all mines, works and machinery.

Official supervision of mines, works and machinery.

3. (1) Any inspector of mines, machinery or explosives and any other officer referred to in section *two* may at any hour of the day or night enter any mine or works over which he exercises supervision in terms of the directions of the Government Mining Engineer and inspect or examine such mine or works or any part thereof or any machinery thereat, provided he does not impede or obstruct the working of the mine or the carrying on of the works.

General powers of inspectors and officers.

(2) When any such inspector finds at any mine or works that any thing or practice in any way connected therewith, or the absence of any thing or practice, is calculated to cause bodily injury to, or be injurious to the health of, any person, or to cause damage to any property, and no provision exists in any law or in any special rule made under section *thirteen* requiring any such thing or practice or prohibiting any such thing or practice, he shall give notice in writing to the manager of the mine or works stating the particular thing, or practice which he requires to be done, or not to be done, or observed or discontinued, and may give such instructions relative thereto as he may deem expedient.

(3) An appeal shall lie to the Government Mining Engineer, in manner prescribed by regulation, against any decision or instruction given under sub-section (2) by any such inspector.

4. (1) An inspector of mines, machinery or explosives may try any person for a contravention of a regulation or of a special rule made under section *thirteen*, unless the death of any person has been caused by such contravention.

Jurisdiction of inspectors to try certain offences, and appeals against findings or sentences.

- (2) (a) When an inspector who tries a person under sub-section (1) finds such person guilty, he may impose upon him a fine not exceeding five pounds and, in default of payment of the fine, shall inform the employer of the person convicted of the amount of the fine so imposed.
- (b) Such employer shall withhold that amount from any wages due or to become due to the person convicted, and pay it over to such inspector.
- (c) Every inspector shall pay all moneys received by him as a fine imposed in terms of paragraph (a) into the Consolidated Revenue Fund.

(3) At any such trial every such inspector shall, if necessary with the assistance of an interpreter, take or cause to be taken down the evidence in writing or by mechanical means, shall record his finding and sentence in writing, and shall transmit, for record purposes, the record of such evidence, finding and sentence to the magistrate of the district in which the contravention took place.

- (4) (a) An appeal shall lie to that magistrate against any such finding or sentence if, within twenty-one days after the date of the sentence, notice stating the grounds of appeal is given in writing to such magistrate and inspector.
- (b) Upon the hearing of such appeal the magistrate may confirm the conviction and sentence or give such judgment or impose such sentence as, in his opinion, the inspector ought to have given or imposed in the first instance, or may remit the case to the inspector with instructions to deal with any matter in such manner as the magistrate may think fit.

5. (1) Where any accident causing death or grievous bodily harm to any person occurs at a mine or works, an inspector of mines, machinery or explosives shall hold an inquiry into the cause of the accident, and where any other accident occurs at a mine or works, such an inspector may hold such an inquiry.

Inquiries into accidents and other matters.

(2) Where an inspector of mines, machinery or explosives has reason to suspect that any provision of this Act or any special rule made under section *thirteen* has been contravened, he may hold an inquiry as to any such suspected contravention, and where in the opinion of the Government Mining Engineer

it is for any reason expedient that an inquiry be held as to any occurrence at any mine or works, he may depute any inspector of mines, machinery or explosives or any Government officer to hold an inquiry as to any such occurrence.

(3) The officer who holds any inquiry in terms of sub-section (1) or (2) shall, if necessary with the assistance of an interpreter, take or cause to be taken down in writing or by mechanical means the evidence given thereat, and shall transmit a copy thereof with his report thereon, to the Government Mining Engineer, unless otherwise directed by him, and, in the case of an accident causing death, shall also transmit a copy thereof to the Attorney-General of the Province in which the mine or works in question are situate.

(4) Upon consideration of such evidence and report, the Government Mining Engineer may in his discretion depute another inspector of mines, machinery or explosives or Government officer to hold a further inquiry.

(5) (a) Nothing contained in this section shall affect any law requiring and regulating inquests or other inquiries in case of death from other than natural causes, and in every case of death caused by such an accident, there shall be held, in addition to any inquiry rendered necessary by this section, such inquest or other inquiry as shall be provided for by any such law, but the inquiry to be held under sub-section (1) may be held jointly with an inquest held by a magistrate under the Inquests Act, 1919 (Act No. 12 of 1919).

(b) The magistrate shall preside at, and the provisions of the Inquests Act, 1919 (Act No. 12 of 1919), shall apply to, any such joint inquiry and inquest, but such inspector and magistrate shall each make the report required of them by sub-section (3) and that Act, respectively.

6. (1) The officer who is to hold, or holds, a trial or inquiry in terms of section *four* or *five*, respectively, may, for the purpose of such trial or inquiry, summon in manner prescribed by regulation any witness, or require any person present, to give evidence or to produce any document or thing which he may deem requisite for properly conducting the trial or inquiry. Attendance and examination of witnesses at trials and inquiries.

(2) When at any inquiry evidence has been given from which any person may reasonably infer that he may be charged with contravening any provision of this Act or may be held responsible in any manner for the accident forming the subject of the inquiry, he may cross-examine any witness, require the officer holding the inquiry to summon any witness on his behalf, either to give evidence or to produce any document or thing, and may appoint any other person to represent him at the inquiry.

(3) Any person summoned as is contemplated in sub-section (1) or (2) who fails, without reasonable excuse, to comply with the terms of the summons, shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding one month.

(4) Any person, whether summoned or not, who—

(a) while under examination refuses to answer to the best of his knowledge or belief any question lawfully put to him by, or with the concurrence of, the officer holding such trial or inquiry;

(b) at such trial or inquiry wilfully insults any such officer; or

(c) at such trial or inquiry wilfully interrupts the proceedings,

shall be guilty of an offence and liable on conviction to the penalties mentioned in sub-section (3).

(5) (a) Such officer shall at any such trial and may at any such inquiry administer an oath to any witness, but where any witness objects to taking an oath he may make an affirmation, and such affirmation shall be of the same force and effect as if such witness had taken such oath.

(b) If any person to whom an oath has been so administered, or who has made such an affirmation, gives

false evidence knowing it to be false, he shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(6) Any such witness shall have the same privileges in respect of answering questions or producing documents as he would have under the same circumstances if he were summoned as a witness before a superior court.

7. Any person who—

- (a) obstructs or hinders any officer referred to in section *two*, or any Government officer referred to in sub-section (2) of section *five*, in the discharge of his duty; or
- (b) refuses or neglects to furnish any such officer with the means and assistance necessary for making any entry, inspection, examination or inquiry under this Act, or to attend, when required to do so by any such officer, any such inspection or examination,

Obstruction of or failure to assist officials.

shall be guilty of an offence.

8. (1) Where in the opinion of the Government Mining Engineer the use of a connecting tunnel, shaft, incline or excavation through any land is necessary for the improved working of a mine, and the making or use thereof will not hinder the working of such land or the minerals therein, he may, in his discretion, permit any person working such mine to drive through such land, and thereafter to use, such a tunnel, shaft or incline, or to make use of any such existing tunnel, shaft, incline or excavation which may have been driven or made in such land.

Driving and use of connecting tunnels, shafts, inclines or excavations.

(2) The person to whom such permission has been granted shall—

- (a) make good any damage arising from the making or use of the tunnel, shaft, incline or excavation; and
- (b) hand over free of cost, at the surface of the mine, to the person entitled thereto, all minerals extracted in the tunnel, shaft or incline, or, at the option of such lastmentioned person, pay over to him the value thereof as determined by the Government Mining Engineer.

(3) No person shall wilfully hinder or obstruct the person to whom such permission has been granted, in the making or use of the tunnel, shaft, incline or excavation.

9. (1) No person shall perform, or cause or permit any other person to perform, any work at a mine or works, in connection with the operation of a mine or works, on a Sunday, Christmas Day or Good Friday, unless the work is—

Restrictions as to work on Sundays, Christmas Day and Good Friday.

- (a) attending to or working pumping or ventilating machinery, or machinery for the supply of light, heat or power, or any boiler belonging to any such machinery;
- (b) such work above or below the surface as cannot be delayed without causing danger or damage to life, health or property, including work in workshops necessary or incidental to any such work;
- (c) operating any continuous chemical, metallurgical or smelting process, if a stoppage thereof during the whole of any such day would either prevent its immediate resumption on the next succeeding day or diminish the effectiveness of the process;
- (d) the running of stamp mills or other machinery used for crushing ore, erected before the first day of December, 1911; or
- (e) the policing of the mine or works, or the carrying on of medical and health services or services in connection with housing and feeding.

(2) The Government Mining Engineer may, on application to an inspector of mines, grant special permission for carrying on temporarily any necessary work, in addition to work described in sub-section (1), at a mine or works on the days mentioned in that sub-section.

10. (1) Subject to the provisions of sub-section (2), no person shall work, or cause or permit any other person to work, underground in any mine for more than forty-eight hours during any consecutive seven days, exclusive of the time occupied in going to and from the place where the work is performed.

Limitation of hours of employment.

- (2) The provisions of sub-section (1) shall not apply to—
- (a) work necessitated by accident or other emergency;
 - (b) work in a coal mine;
 - (c) work in any particular mine, or any particular locality in any mine, exempted therefrom by the Minister by notice in the *Gazette*; and
 - (d) the work or service of any special class of employees exempted therefrom by the Minister by notice in the *Gazette* for the reason that such work or service is performed or rendered for the purpose of securing safety or transporting employees to or from their working place underground in the mine.

(3) If, in the opinion of the Minister, employment in any locality or occupation at any works, or on the surface or in opencast workings of any mine, is or is likely to be injurious to health, he may, by notice in the *Gazette*, declare that the provisions of sub-section (1), except in so far as it contains a reference to the provisions of paragraphs (b), (c) and (d) of sub-section (2), shall apply to any such employment in any such locality or occupation.

(4) The Minister may at any time amend, vary or revoke any exemption granted under sub-section (2), and any notice issued under sub-section (3).

11. (1) No male person under the age of sixteen years and no female shall work, and no person shall cause or permit any male person apparently under the age of sixteen years or any female to work, underground in any mine. Restriction upon employment of juveniles and females.

- (2) (a) No person under the age of sixteen years shall work, and no person shall cause or permit any person apparently under the age of sixteen years to work, at any works or on the surface or in opencast workings of any mine for more than forty-eight hours during any consecutive seven days, except for the purpose of performing work necessitated by accident or other emergency.
- (b) The period of work referred to in paragraph (a) shall not include the time occupied in going to and from the place where the work is performed.

(3) If, in the opinion of the Minister, the employment of male persons under the age of sixteen years or of females in any locality or occupation at any works or on the surface or in opencast workings of any mine, is or is likely to be injurious to the health of such persons, he may by notice in the *Gazette* declare that the provisions of sub-section (1) shall apply to any such employment in any such locality or occupation, and he may at any time amend, vary or revoke any such notice.

12. (1) The Governor-General may make regulations as Regulations. to—

- (a) the protection and preservation of the surface of mines, works and adjoining land, of buildings, roads, railways and other structures and enclosures on or above the surface of such land, and of water resources, the conditions under which any such surface, buildings, roads, railways, structures or enclosures may be undermined, and the conditions under which mining may be carried on under and in the vicinity of such water resources;
- (b) the prohibition or restriction in relation to the making or use of roads or railways over, or the erecting or use of buildings or other objects on, areas which have been undermined;
- (c) the making and keeping of mine plans and the filing of copies thereof with the Department of Mines;
- (d) the making of statistical and other reports relating to minerals, mines, works and machinery;
- (e) the duties and responsibilities of persons engaged in or about mines, works and machinery, and of the owners thereof;
- (f) the storage, receipt, distribution, transport and use of explosives in the workings of mines, excluding quarries worked by local authorities and quarries worked by persons for or on behalf of local authorities or State Departments;

- (g) the safety and health of persons employed in or about mines, works and machinery, and generally of persons, property and public traffic;
- (h) the limitation of hours of underground work in coal mines, or of underground work in any mine or occupation, or of any class of employees, exempted by the Minister from the provisions of sub-section (1) of section *ten*;
- (i) the conditions upon which machinery may be erected or used;
- (j) the reporting of accidents occurring at mines and works and the provision of ambulances and medical aid in case of accident;
- (k) the procedure to be followed in connection with trials by an inspector and the hearing of appeals by a magistrate, and the mode of securing the attendance of accused persons and witnesses at such trials;
- (l) the manner of holding inquiries at or in connection with any mine or works, the procedure to be followed at any such inquiry, and the mode of securing the attendance of witnesses thereat;
- (m) appeals from any decision of, or instruction given by, the Government Mining Engineer, an inspector of mines, machinery or explosives, or other officer;
- (n) certificates of competency required for employment in any particular occupation in, at or about mines, works or machinery, the grant, cancellation and suspension of such certificates, and the prohibition of employment of persons not in possession of the required certificates of competency;
- (o) the fees to be paid in connection with the examination for, and the grant of, any such certificate as is referred to in paragraph (n);
- (p) the fees to be paid for any inspection or test under this Act;
- (q) the fees payable to any member of a commission or committee appointed in terms of the regulations;
- (r) underground contract work on mines, the measurement of such work, and the procedure to be adopted in the settlement of disputes arising therefrom;

and generally for ensuring the proper working and management of all mines, works and machinery, and for better carrying out the objects and purposes of this Act.

- (2) (a) Any regulation under paragraph (n) of sub-section (1) may provide that in any Province, area or place specified therein, certificates of competency in any occupation likewise specified, shall be granted only to persons of the following classes:
 - (i) Europeans;
 - (ii) persons born in the Union and ordinarily resident therein, who are members of the class or race known as Cape Coloureds or of the class or race known as Cape Malays; and
 - (iii) the people known as Mauritius Creoles or St. Helena persons or their descendants born in the Union.
- (b) The regulations may also restrict particular work to, and, in connection therewith, impose duties and responsibilities upon, persons of the classes mentioned in sub-paragraphs (i), (ii) and (iii) of paragraph (a) of this sub-section, may apportion particular work as between them and other persons, and may require such proof of competency as may be prescribed.

(3) Different regulations may be made in respect of different Provinces, areas or mining districts of the Union or in respect of different mines or classes of mines or different works or classes of works.

(4) The regulations may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding the penalties mentioned in section *seventeen*, and may prescribe daily penalties for a continuing contravention or non-compliance, and increased penalties for a second or subsequent contravention or non-compliance, subject always to the limitations mentioned in section *seventeen*.

13. (1) The manager of a mine or works may make special rules, not inconsistent with this Act, for the maintenance of order and discipline, and the prevention of accidents, at any such mine or works, and if he makes such rules he shall submit them, through an inspector of mines, to the Government Mining Engineer, who shall send them to the Minister for his approval, and when approved by him they shall take effect after they have been posted up in a conspicuous place at the mine or works for fourteen clear days.

Special rules for order and discipline at mines and works.

(2) If the Minister considers any such rule unreasonable, unnecessary or otherwise undesirable, he may disallow it or at any time require it to be altered.

(3) Any objection to any such rule may be lodged at the office of an inspector of mines, and shall be forwarded by him to the Government Mining Engineer, who shall submit it, with his remarks thereon, to the Minister, who may either confirm or alter the rule regarding which the objection may have been lodged.

(4) When and so long as such rules are so posted up they shall, so long as they are legible and until they are so disallowed, and save in so far as they are so altered, have the same force and effect as the regulations, and any person who contravenes or fails to comply with any such rule, shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds or, in default of payment, to imprisonment for a period not exceeding fourteen days.

14. Any person who obtains or attempts to obtain any certificate of competency under the regulations by means of fraud, false pretences or any false document shall be guilty of an offence and liable on conviction to a fine not exceeding seventy-five pounds or, in default of payment, to imprisonment for a period not exceeding six months, and any certificate so obtained shall on such conviction *ipso facto* lapse.

Obtaining of certificate of competency fraudulently.

15. If any person is guilty of any act or omission whereby in or at any mine, works or machinery—

Endangering safety or causing serious bodily injury.

(a) the safety of any other person is endangered or likely to be endangered; or

(b) serious bodily injury is caused to any other person,

he shall be guilty of an offence and liable on conviction, in the case of an offence referred to in paragraph (a), to a fine not exceeding two hundred and fifty pounds or, in default of payment, to imprisonment for a period not exceeding twelve months, and in the case of an offence referred to in paragraph (b), to a fine not exceeding five hundred pounds or, in default of payment, to imprisonment for a period not exceeding twelve months.

16. Any person who—

Offences when not expressly provided for.

(a) contravenes any provision of this Act; or

(b) fails to comply with the terms of any notice or instruction given under this Act by any officer referred to in section two,

shall, where such contravention or failure is not elsewhere declared an offence, be guilty of an offence.

17. If any person is convicted of any offence against this Act for which no penalty is expressly provided, he shall be liable on such conviction to a fine not exceeding one hundred and fifty pounds or, in default of payment, to imprisonment for a period not exceeding twelve months.

Penalties when not expressly provided for.

18. If any person is convicted of a contravention of or failure to comply with any provision of this Act or of any special rule made under section thirteen, whereby—

Increased penalties.

(a) the safety of any other person was endangered or likely to be endangered; or

(b) serious bodily injury was caused to any other person,

he shall, notwithstanding any other provision of this Act, be liable on such conviction to respectively the penalties prescribed for a contravention of paragraph (a) or (b) of section fifteen.

19. Notwithstanding any other provision in any other law contained a magistrate's court shall have jurisdiction to impose any penalty provided for in this Act.

Increased jurisdiction of magistrates' courts.

20. (1) Subject to the provisions of sub-section (2) the Mines and Works Act, 1911 (Act No. 12 of 1911), the Mines and Works Act, 1911, Amendment Act, 1926 (Act No. 25 of 1926), the Mines and Works (Amendment) Act, 1931 (Act No. 22 of 1931), and the Mines and Works (Amendment) Act, 1934 (Act No. 5 of 1934), are hereby repealed. Repeal of laws.

(2) Any regulation, rule, notice, order, instruction, prohibition, authority, permission, exemption, certificate or document made, issued, given or granted, and any other action taken, under any provision of a law repealed by sub-section (1), and any certificate granted before the first day of December, 1911, in terms of any provision of a law repealed by the Mines and Works Act, 1911 (Act No. 12 of 1911), shall be deemed to have been made, issued, given, granted or taken under the corresponding provision of this Act.

21. This Act shall be called the Mines and Works Act, 1956. Short title.