

NORTHERN TERRITORY OF AUSTRALIA

MINE MANAGEMENT ACT 1990

No. 37 of 1990

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SCHEDULE



# NORTHERN TERRITORY OF AUSTRALIA

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No. 37 of 1990

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## AN ACT

relating to the inspection and management  
of mines, and for related purposes

[Assented to 22 June 1990]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

### PART I - PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the *Mine Management Act 1990*.

#### 2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3. DEFINITIONS

In this Act, unless the contrary intention appears -

"agent" means a person having, as the representative of the owner of a mine, control of the mine and the manager of the mine;

"approved" means approved by the Chief Government Mining Engineer;

"Board" means the Mining Board of the Northern Territory constituted under Part III;

"Chief Government Mining Engineer" means the person appointed under section 6(1)(b) as the Chief Government Mining Engineer;

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"code of practice" means a code of practice approved under section 41;

"Director of Mines" means the person appointed under section 6(1)(a) as the Director of Mines;

"explosives" means any blasting material or mixture of blasting materials which, when ignited, undergoes a rapid chemical change with the development of heat and high pressure;

"extractive mineral" means -

- (a) soil; or
- (b) sand, gravel, clay or stone for use in the manufacture of ceramics or in construction, building or road works;

"government mining engineer" means a person appointed under section 6(1)(c) as a government mining engineer;

"inspector" means a person appointed under section 6(1)(b), (c) or (d);

"machinery" means any engine, motor or other source of motive power (other than hand, treadle, wind or animal power) and any machine, shaft, belt, gearing, pulley, flywheel, lift, crane, contrivance or appliance operated by such engine, motor or other source of motive power for any purpose;

"manager" means a person appointed under section 12 as the manager of a mine and includes a deputy manager appointed under that section when acting as manager;

"mine" means a place or area where the exploration for, or the mining or treatment of, a mineral or an extractive mineral takes place and includes a place in relation to which a declaration under section 5(3) is in force;

"mine manager's certificate of competency" means a mine manager's certificate of competency granted under section 11;

"mineral" means -

- (a) any naturally occurring elements, compounds or substances of inorganic origin;
- (b) any naturally occurring carbonate material;
- (c) any naturally occurring coal, lignite, oil shale or other similar substance;

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(d) any other substance declared by the Minister, by notice in the *Gazette*, to be a mineral,

but does not include -

(e) water; or

(f) petroleum within the meaning of the *Petroleum Act*;

"mine record book" means the mine record book kept under section 17;

"mining", "to mine" and "mining operations" mean the disturbance, removal or treatment, by any means, of a mineral or extractive mineral, on or under the earth's surface and include the removal, transport and storage of waste material from a mine;

"owner", in relation to a mine, means a person who is the proprietor, lessee or occupier of the mine;

"special provisions" means special provisions approved under section 42;

"winding engine" means a mechanical appliance by which persons or materials are raised or lowered in a vertical or inclined shaft at a mine;

"winding licence" means a winding licence granted under section 26;

"workings" means the portions of a mine which are being excavated or which have been excavated.

### 4. ACT TO BIND CROWN

This Act binds the Crown in right of the Territory and, in so far as is legislatively possible, the Crown in all its other capacities.

### 5. APPLICATION

(1) Subject to subsection (2), this Act applies to all mines in the Territory.

(2) The Minister may, by notice in writing, exempt -

(a) a mine; or

(b) a part of a mine,

from this Act or the Regulations, or specified provisions of this Act or the Regulations, for such period and on

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such conditions as the Minister thinks fit and specifies in the notice.

(3) The Minister may, by notice in the *Gazette*, declare that -

- (a) this Act; or
- (b) a specified provision of this Act,

applies, for such period as is specified in the notice, to a place where an operation, which is not a mining operation, is or is to be carried on.

### PART II - ADMINISTRATION

#### 6. APPOINTMENT OF OFFICERS

(1) Subject to this section, the Minister may appoint an employee, within the meaning of the *Public Service Act*, to be -

- (a) the Director of Mines;
- (b) the Chief Government Mining Engineer;
- (c) a government mining engineer; or
- (d) a mines inspector.

(2) A person shall not be appointed as the Chief Government Mining Engineer unless that person -

- (a) has the qualifications and experience referred to in subsection (3); and
- (b) is the holder of a mine manager's certificate of competency.

(3) A person shall not be appointed a government mining engineer unless that person has a degree or diploma in mining engineering and not less than 5 years experience in mining.

(4) An appointment under subsection (1)(d) may be subject to such conditions or restrictions as the Minister thinks fit.

#### 7. DISCLOSURE OF INFORMATION

An inspector shall not, except -

- (a) in the performance of the inspector's duties under this Act; or
- (b) otherwise in accordance with this Act or any other law in force in the Territory,

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disclose any information obtained by the inspector in the performance of the inspector's duties under this Act.

### PART III - MINING BOARD OF THE NORTHERN TERRITORY

#### 8. MINING BOARD OF THE NORTHERN TERRITORY

(1) There is established by this Act the Mining Board of the Northern Territory.

(2) The Board shall consist of -

(a) the Director of Mines;

(b) the Chief Government Mining Engineer; and

(c) 4 persons appointed by the Minister on the grounds of their qualifications, knowledge and skill in the mining industry.

(3) A person appointed under subsection (2)(c) holds office for such period not longer than 3 years as the Minister determines but is eligible to be reappointed.

(4) Of the persons appointed under subsection (1)(c) not less than 2 shall be persons who -

(a) are employed in the mining industry and not employees, within the meaning of the *Public Service Act*; and

(b) hold -

(i) a mine manager's certificate of competency; or

(ii) a certificate, however referred to, issued in a State or another Territory of the Commonwealth which is the equivalent in that State or Territory of a mine manager's certificate of competency.

#### 9. MEETINGS OF BOARD

(1) The Director of Mines is the Chairman of the Board.

(2) A quorum for a meeting of the Board is the Chairman and 3 members.

(3) The Board shall meet not less than twice in each calendar year and, subject to this Act, it shall determine the procedure for calling its meetings and for the conduct of its proceedings.

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### 10. FUNCTIONS OF BOARD

The Board, in addition to the functions specifically imposed on it by sections 11 and 45, shall advise the Minister -

- (a) on the operation of this Act after making such inquiries as the Minister may direct; or
- (b) when directed by the Minister, on such matters arising out of, or in connection with, this Act.

### PART IV - MANAGEMENT OF MINES

#### *Division 1 - Mine Manager's Certificate of Competency*

### 11. MINE MANAGER'S CERTIFICATE OF COMPETENCY

(1) A person may apply to the Board for the grant of a mine manager's certificate of competency.

(2) An application under subsection (1) shall contain such information relating to the person's qualifications and experience as the Board determines.

(3) The Board shall, where a person applying under subsection (1) has -

- (a) qualifications and experience; or
- (b) obtained a pass in an examination,

approved by the Board, grant the application and direct the Chairman of the Board to issue to that person a mine manager's certificate of competency.

(4) A mine manager's certificate of competency shall remain in force for the period, and is subject to such conditions and limitations, if any, as the Board thinks fit and specifies in the certificate.

#### *Division 2 - Mine Managers*

### 12. APPOINTMENT OF MANAGERS AND DEPUTY MANAGERS

(1) Subject to this section, the owner or agent of a mine shall appoint a manager and a deputy manager of the mine.

(2) A person appointed as a manager or deputy manager of a mine under subsection (1) shall have a thorough knowledge of -

- (a) this Act and the Regulations; and
- (b) good industry practice in respect of the operation of, and safety, at the mine.



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(3) The owner or agent of a mine shall, not later than 14 days after making an appointment under subsection (1), notify the Chief Government Mining Engineer in writing of the appointment.

(4) A notice under subsection (3) shall contain -

- (a) the name and address of the person appointed;
- (b) the name and location of the mine in respect of which the person is appointed;
- (c) details of the person's qualifications and experience; and
- (d) written acceptance by the person of the appointment.

(5) A person shall not -

- (a) be appointed as a manager; or
- (b) act as the manager in pursuance of section 13 for a period longer than 60 days at any one time,

of a mine where more than 20 persons are ordinarily employed unless that person is the holder of a mine manager's certificate of competency.

### 13. DEPUTY MANAGER TO ACT AS MANAGER

Subject to section 12, a deputy manager of a mine shall act as the manager of the mine during such time as the manager is -

- (a) unable to perform the duties of manager; or
- (b) absent from the mine.

### 14. MINE TO BE UNDER CONTROL OF MANAGER

(1) A mine, while being worked, shall be under the control and supervision of the manager or, as permitted by this Act, the deputy manager.

(2) In addition to subsection (1), the manager or deputy manager of a mine shall attend at the mine each day it is being worked.

(3) The owner or agent of a mine, or any other person having authority over the manager of a mine, shall not wilfully obstruct the manager performing the duties imposed on the manager under this Act.

(4) Where a person, in pursuance of an agreement with the owner or agent of a mine, is working the whole or a part of the mine, the manager of the mine shall, by

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force of this section, have the same powers in respect of that person as if that person were an employee of the owner of the mine, and that person shall not contravene or fail to comply with any direction of the manager given to that person in accordance with this Act.

### 15. DUTIES OF MANAGER

The manager of a mine shall, in respect of the mine -

- (a) ensure that all activities carried on at the mine are carried out in accordance with this Act, the Regulations and with any codes of practice and special provisions applicable to the mine;
- (b) ensure that every person responsible to the manager is familiar with this Act, the Regulations, and with any codes of practice and special provisions applicable to the mine, in so far as they are relevant to that person's employment and responsibility at the mine;
- (c) make available to employees at the mine copies of this Act, the Regulations and any codes of practice and special provisions applicable to the mine;
- (d) ensure that every person responsible to the manager is able to perform his or her duties competently;
- (e) provide and maintain a working environment at the mine which is, so far as is practicable, safe and without risk to the health of any person at the mine;
- (f) ensure the implementation of safe working systems and practices at the mine;
- (g) ensure the implementation of occupational safety, health and hygiene standards at the mine;
- (h) ensure that work at the mine is carried out in a manner which minimizes damage to the environment in or about the mine; and
- (j) carry out inspections of the mine, including -
  - (i) a daily inspection of all workings; and
  - (ii) a weekly inspection of the whole mine.

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16. ASSISTANCE IN INSPECTION OF MINE

(1) The manager of a mine may appoint persons to assist the manager in carrying out the duties imposed on the manager under section 15(j).

(2) The manager of a mine shall, as soon as practicable after making an appointment under subsection (1), enter particulars of the appointment in the mine record book.

17. MINE RECORD BOOK

(1) The manager of a mine shall keep at the mine a mine record book.

(2) The manager of a mine shall make the mine record book available at all reasonable times for examination by -

- (a) an inspector;
- (b) a person employed at the mine; or
- (c) a person authorized in writing for that purpose by the Minister.

(3) Where an inspection of a mine or a part of a mine is carried out under this Act, the person carrying out the inspection shall, as soon as practicable after the inspection is carried out, enter in the mine record book -

- (a) a statement that the inspection has been carried out;
- (b) any findings following the inspection; and
- (c) particulars of any precautions, repairs or alterations which, in the opinion of the person carrying out the inspection, are required to ensure the safety of persons working at the mine or to protect persons who may be affected by the work being carried out at the mine.

(4) Subject to subsection (5), a mine record book shall be kept at the mine to which it relates for 7 years after the date on which the last entry in the book is made.

(5) Where a mine ceases to be worked during the 7 years referred to in subsection (4), the manager of the mine shall deliver the mine record book or cause it to be delivered to the Chief Government Mining Engineer.

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### 18. NOTIFICATION OF OPERATION AT MINE

The manager of a mine shall give written notice to the Chief Government Mining Engineer of the commencement, discontinuance, recommencement or abandonment of mining operations at the mine not less than 14 days before mining operations are commenced, discontinued, recommenced or abandoned.

## PART V - ACCIDENTS AND INJURIES

### 19. NOTIFICATION OF ACCIDENTS

(1) The manager of a mine shall, as soon as practicable after the occurrence at the mine of an accident causing the death of a person, by the quickest practical means available, notify -

- (a) an inspector; and
- (b) a member of the Police Force,

of the occurrence of the accident.

(2) The manager of a mine shall, as soon as practicable after the occurrence at the mine of an accident of a kind specified in subsection (4), by the quickest practicable means available, notify an inspector of the occurrence of the accident.

(3) Subject to subsection (6), where an accident referred to in subsection (1) occurs, the manager of the mine shall ensure that -

- (a) work ceases at the workplace where the accident occurred and is not resumed until permitted by an inspector; and
- (b) the workplace where the accident occurred is not interfered with except to -
  - (i) render assistance to or treat an injured person;
  - (ii) prevent injury to any other person or damage to property; or
  - (iii) ameliorate or remedy a dangerous situation.

(4) For the purposes of subsection (2), the accidents to which that subsection applies are -

- (a) an accident which results in a person -
  - (i) being admitted to hospital;
  - (ii) being treated by a medical practitioner;

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- (iii) sustaining an electrical shock or electrical burn; or
  - (iv) inhaling a hazardous chemical or a substantial part of a person's body coming into contact with a hazardous chemical;
- (b) a breakage of an essential part of any winding machinery, or an overwind, slack rope or an accident in connection with any winding machinery;
  - (c) an unforeseen subsidence, settlement or fall of ground, whether as a result of blasting or otherwise, or a collapse of a part of any workings;
  - (d) an outbreak of a dangerous fire above ground or any fire underground;
  - (e) an intrush of water;
  - (f) the ignition of dust or gas, or the discovery of the presence of gas;
  - (g) the accidental ignition or detonation of explosives;
  - (h) an abnormal radiation hazard or exposure;
  - (j) a rollover, collision or uncontrolled movement of mobile plant or equipment, including a fall or slide over the edge of a dump, stockpile, bench or haulroad, whether or not injury or property damage results from the accident; or
  - (k) a substantial fault or breakdown in, or disruption to, electrical circuits, switch gear or equipment.
- (5) The manager of a mine shall, not later than 7 days after giving notice of the occurrence of an accident under subsection (1) or (2) -
- (a) forward a report, in writing, of the accident to the Chief Government Mining Engineer; and
  - (b) enter details of that report in the mine record book.
- (6) Subsection (3) does not apply to or in relation to an accident in a workplace in a continuous process plant where the continuation of work will not alter the workplace so to affect an investigation of the accident.

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(7) For the purpose of subsection (6), "continuous process plant" means a plant -

- (a) where a product of a mine is treated or dressed, by whatever means; and
- (b) which of necessity operates continuously.

### 20. INSPECTION BY INSPECTOR FOLLOWING ACCIDENT

(1) Subject to subsection (2), an inspector, on being notified of an accident in accordance with section 19 shall, as soon as practicable after being notified, examine the workplace where the accident occurred to determine the cause of the accident.

(2) Notwithstanding subsection (1), an inspector may dispense with an examination of a workplace under subsection (1) and where an inspector does so the inspector shall notify the manager of the mine of that fact and that work may be resumed at the workplace.

(3) An inspector may obtain such assistance from such persons as the inspector considers necessary for the purpose of carrying out an examination under subsection (1).

(4) After carrying out an examination under subsection (1) an inspector shall enter in the mine record book for the mine a notification as to whether or not work may be resumed at the workplace where the accident occurred, and, where work may be resumed, shall notify the manager of the mine.

### 21. OFFENCES IN RELATION TO ACCIDENTS

A person shall not knowingly -

- (a) conceal a particular; or
- (b) give or tender false or misleading particulars,

relating to, or the nature of an injury caused by, an accident at a mine.

### 22. LOST TIME INJURY REPORTS

(1) For the purposes of subsection (2)(b), "lost time injury" means an injury which occurs at a mine which results in a person employed at the mine being unable to work for a full day or shift at any time after the person sustains the injury.

(2) The manager of a mine shall, not later than 14 days after the last day of each month, provide to the Chief Government Mining Engineer a report, in the approved form, giving details of -

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- (a) the total number of persons (including contractors) employed at the mine during that month and the total number of hours worked by those persons; and
- (b) all lost time injuries which occurred at the mine during that month.

### PART VI - EMPLOYMENT

#### 23. EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE

(1) A person who has not attained the age of 16 years shall not be employed at a mine.

(2) A person who has not attained the age of 18 years shall not -

- (a) except with the approval in writing of the Chief Government Mining Engineer, be employed to work underground at a mine;
- (b) charge anything with, or fire, explosives at a mine; or
- (c) be employed in a mine to work in a hazardous place or with hazardous materials or substances, or in the capacity of lander, platman or bracedman.

#### 24. DUTY OF EMPLOYEE

(1) A person employed at a mine shall -

(a) before commencing work ascertain, so far as is practicable, whether -

(i) any machinery or equipment the person is to use; and

(ii) any place in which the person is to work, is safe;

(b) not knowingly -

(i) use any machinery or equipment; or

(ii) work in any place, which is unsafe;

(c) if the person knows that any machinery, equipment or place at the mine is unsafe or likely to cause danger to any person at the mine -

(i) wherever practicable, endeavour to rectify, isolate, identify or prevent access to, as

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is appropriate, the machinery, equipment or place; and

(ii) report the matter to a person in authority over that person; or

(d) report to a person in authority over the person any accident at the mine as soon as practicable after that person becomes aware of the accident.

(2) A person to whom a report under subsection (1)(c) or (d) is made shall, as soon as practicable after receiving the report, notify the manager of the mine.

### PART VII - WINDING ENGINES AND WINDING ENGINE DRIVERS

#### 25. OPERATORS OF WINDING ENGINES

A person shall not operate or be in charge of a winding engine at a mine unless that person is -

(a) the holder of a winding licence in respect of the winding engine; or

(b) operating or in charge of the winding engine in accordance with the Regulations.

#### 26. WINDING LICENCE

(1) A person may apply, in the approved form, to the Chief Government Mining Engineer for a winding licence.

(2) Subject to this section, the Chief Government Mining Engineer, on receipt of an application under subsection (1), may grant or refuse the application.

(3) The Chief Government Mining Engineer shall not grant a winding licence unless the applicant possesses -

(a) a certificate of a medical practitioner, obtained not more than 30 days before the date of the application, stating that, in the opinion of the medical practitioner, the applicant is not suffering from any physical disability or condition which would make the applicant unfit to hold a winding licence; and

(b) the approved qualifications.

(4) A winding licence may be subject to such restrictions, limitations and conditions as the Chief Government Mining Engineer thinks fit and specifies in the licence.

(5) The holder of a winding licence shall not operate, or be in charge of, a winding engine in contravention of a restriction, limitation or condition to which the licence is subject.



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27. CANCELLATION, SUSPENSION, &c., OF LICENCE

(1) The Chief Government Mining Engineer, on being satisfied that the holder of a winding licence -

- (a) is not physically or mentally fit to hold the licence;
- (b) has been negligent or guilty of misconduct while operating or in charge of a winding engine; or
- (c) has contravened or failed to comply with a restriction, limitation or condition to which the winding licence is subject,

may -

- (d) cancel;
- (e) suspend; or
- (f) vary a restriction, limitation or condition of, the licence.

(2) For the purposes of subsection (1)(a), the Chief Government Mining Engineer may require the holder of a winding licence to undergo an examination by a medical practitioner.

(3) Where, under subsection (1), the Chief Government Mining Engineer cancels or suspends, or varies a restriction, limitation or condition of, a winding licence, the Chief Government Mining Engineer shall notify the holder of the licence of the cancellation, suspension or variation.

(4) The holder of a winding licence shall, not later than 14 days after being notified under subsection (3), deliver the licence to the Chief Government Mining Engineer.

(5) Where the Chief Government Mining Engineer has, under subsection (1), varied a restriction, limitation or condition of a winding licence, the Chief Government Mining Engineer shall, on receiving the licence under subsection (4), endorse the licence accordingly and return it to the holder.

(6) A person whose winding licence is suspended shall cease to be the holder of the winding licence during the period of suspension.

28. MANAGER TO REPORT NEGLIGENCE OF WINDING ENGINE DRIVER

Where the holder of a winding licence is -

- (a) negligent; or

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- (b) guilty of misconduct,

in the performance of any duties relating to the winding engine at a mine whereby the safety of any person at the mine is or may be endangered, the manager of the mine shall -

- (c) direct the holder of the winding licence to cease operating or, where the holder is in charge of the winding engine, to cease performing any duties in respect of the winding engine; and
- (d) as soon as practicable, notify the Chief Government Mining Engineer.

### 29. WINDING ENGINE LOG BOOK

(1) The manager of a mine shall keep at the mine a winding engine log book in respect of each winding engine at the mine.

(2) The manager of a mine shall make the winding engine log book available at all reasonable times for examination by -

- (a) an inspector;
- (b) a person employed at the mine; or
- (c) a person authorized in writing for that purpose by the Minister.

### 30. APPROVAL OF WINDING ENGINES

A winding engine shall not be -

- (a) installed at a mine;
- (b) commissioned at a mine; or
- (c) operated at a mine after a change is made to a design or safety feature of the engine,

unless the prior approval of the Chief Government Mining Engineer has been obtained.

## PART VIII - PLANS OF MINES

### 31. PLANS OF MINES TO BE PREPARED

(1) The manager of a mine shall, not later than 6 months after mining at the mine is commenced, prepare or cause to be prepared a plan of the mine.

(2) The manager of a mine shall, not later than 6 months after complying with subsection (1) and

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thereafter at intervals not longer than 6 months, amend the plan of the mine or cause it to be amended to include any extensions or modifications to the mine made during that period.

(3) A plan referred to in subsection (1) and any amendment to it referred to in subsection (2) shall be prepared in accordance with the prescribed requirements and the prescribed form.

(4) The manager of a mine shall -

(a) keep the plan of the mine containing all amendments prepared under this section in a secure place at the mine; and

(b) deliver a copy of the plan of the mine containing all amendments prepared under this section to the Director of Mines -

(i) when requested by the Director of Mines; or

(ii) not later than 28 days after the mine is closed.

### PART IX - INSPECTION OF MINES

#### *Division 1 - Powers of Inspectors*

#### 32. GENERAL POWERS

Subject to this Act, an inspector may -

(a) enter and inspect a mine at any time and with such assistants as the inspector considers necessary, but not so as to unnecessarily impede or obstruct the workings of the mine;

(b) conduct an inquiry for the purpose of determining whether this Act, the Regulations or any conditions applying to an exploration licence, exploration retention licence or mining tenement granted under the *Mining Act* are being complied with;

(c) conduct an inquiry into -

(i) the state and condition of a mine;

(ii) the ventilation of a mine;

(iii) the sufficiency of the Regulations and any codes of practice or special provisions applying to a mine;

(iv) a matter relating to the safety or well-being of persons employed at a mine; or

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- (v) any accidents or incidents which have occurred at a mine;
- (d) conduct an inquiry or examination for the purpose of ascertaining whether safety, occupational health and environment protection standards at a mine comply with this Act, the Regulations or any codes of practice or special provisions applicable to the mine;
- (e) require, for the purpose of an inquiry or examination affecting a mine, the attendance of the owner, agent, manager or any officer or employee, of the mine;
- (f) exercise in respect of a mine any or all of the powers which may, in the opinion of the inspector, be reasonably required to enable the inspector to properly perform and discharge the inspector's duties with respect to an adjacent mine;
- (g) give directions relating to this Act or the Regulations to persons to whom this Act applies;
- (h) give directions requiring a person to leave a mine or a part of a mine or requiring a person not to enter a mine or part of a mine; and
- (j) do such other things as may be reasonably necessary for the purpose of ensuring -
  - (i) the safety of persons at a mine; or
  - (ii) compliance with this Act, the Regulations or any codes of practice or special provisions applicable to the mine.

### 33. INSPECTOR MAY ORDER CESSATION OF WORK

Where an inspector considers a mine or a part of a mine is unsafe the inspector may give such directions to such persons as the inspector thinks fit for the purpose of ensuring the cessation of work at the mine.

### 34. DIRECTION TO REMEDY DANGEROUS SITUATION, &c.

Where, in the opinion of an inspector -

- (a) a thing in, or a practice connected with, a mine is dangerous or defective, or the absence of a thing or practice threatens, or may threaten, the health or safety of a person; or

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- (b) a matter is not sufficiently provided for by this Act, the Regulations or any codes of practice or special provisions applicable to a mine,

the inspector may, by notice in writing served on the owner, agent or manager of the mine, direct that the matter be remedied in the manner and within the time specified in the notice.

### 35. OFFICIAL INSPECTION OF MINES

(1) The Chief Government Mining Engineer may, by notice in writing, authorize a person to enter, inspect or survey a mine for a purpose relating to this Act or the Regulations.

(2) A person authorized under subsection (1) shall have such powers to enter, inspect or survey a mine as the Chief Government Mining Engineer thinks fit and specifies in the notice.

### 36. DUTIES OF INSPECTOR IN RESPECT OF MINE RECORD BOOK

(1) In addition to the matters required to be entered in the mine record book under section 17(3), an inspector shall, as soon as practicable after carrying out the inspection of a mine, enter in the mine record book particulars of -

- (a) the parts of the mine inspected;
- (b) the nature and date of the inspection;
- (c) the extent (if any) to which the conditions at the mine are not in accordance with this Act, the Regulations or any codes of practice or special provisions applicable to the mine, or with anything ordered or required to be done under this Act or the Regulations; and
- (d) any modifications of, or additions to, the mine that the inspector considers necessary to ensure that conditions at the mine are in accordance with this Act, the Regulations or any codes of practice or special provisions applicable to the mine.

(2) The manager of the mine shall cause a copy of an entry made under subsection (1) to be displayed in a conspicuous place at the mine for 14 days or such longer period as the inspector who made the entry may direct.

(3) Where an entry is made in a mine record book under subsection (1), the owner, agent and manager of a mine shall be deemed to know what is contained in the entry.

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37. INQUIRY BY INSPECTOR INTO COMPLAINT

(1) A person employed at a mine may make a complaint to an inspector concerning anything at or relating to the mine.

(2) An inspector to whom a complaint is made under subsection (1) may inquire into the complaint.

(3) An inspector to whom a complaint is made under subsection (1) shall not disclose the name of the person who made the complaint.

38. COMPLIANCE WITH DIRECTIONS

Subject to section 45, a person shall comply with a direction or requirement of an inspector given to the person under this Part.

39. OBSTRUCTING AN INSPECTOR

(1) A person shall not wilfully obstruct an inspector in the exercise of the inspector's powers or the performance of the inspector's duties under this Act.

(2) The owner, agent and manager of a mine, shall afford an inspector the means necessary to enter or inspect a mine or to carry out an examination or inquiry under this Act.

*Division 2 - Inspection by Persons Employed at Mine*

40. INSPECTION BY PERSONS EMPLOYED AT MINE

(1) The persons employed at a mine may, at a meeting and by a vote of a majority of the persons present at the meeting, authorize 2 persons employed at the mine, with not less than 2 years experience in the work carried out at the mine, to inspect, in their own time, the mine or a part of the mine.

(2) Before carrying out an inspection under this section the persons authorized under subsection (1) shall give notice of their intention to the manager of the mine.

(3) The manager of a mine or a person nominated by the manager may accompany the persons carrying out an inspection under this section.

(4) The owner, agent and manager of a mine shall afford every facility to the persons carrying out an inspection under this section.

(5) The persons authorized under subsection (1) shall, not later than 24 hours after carrying out the inspection under this section, make and sign a report of the inspection in the mine record book of the mine inspected.

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(6) Where a report under subsection (5) indicates the existence, or apparent existence, of danger at the mine, the persons who made the report shall serve a copy of the report on the manager of the mine and the Chief Government Mining Engineer.

(7) Where a person who carries out an inspection of a mine under this section is injured while carrying out the inspection, the injury shall be deemed, for the purposes of Part V of the *Work Health Act*, to arise out of or in the course of the person's employment at the mine.

### PART X - CODES OF PRACTICE AND SPECIAL PROVISIONS

#### 41. CODES OF PRACTICE

(1) The Minister may, by notice in the *Gazette*, approve a code of practice, not inconsistent with this Act or the Regulations, to apply at a mine or at mines generally.

(2) A code of practice approved under subsection (1) may consist of a code, standard, rule, specification or provision relating to the management of a mine and to mining engineering, occupational health, safety and hygiene, and the protection of the environment at a mine, prepared or adopted by the Chief Government Mining Engineer and may apply, incorporate or refer to a document formulated or published by a body or authority in force at the time the code of practice is approved, or as amended, formulated or published from time to time.

(3) Where a code of practice is approved under subsection (1), a copy of the approved code of practice shall be retained at the office of the Chief Government Mining Engineer and shall be made available for inspection by a person, without charge, during normal office hours.

(4) Where a code of practice is approved under subsection (1), an owner, agent or manager of a mine, or such other person to whom the code, whether specifically or by implication applies, shall, when requested by notice in writing by an inspector to do so, comply with the code of practice on and from the date specified in the notice.

#### 42. SPECIAL PROVISIONS

(1) The Chief Government Mining Engineer may, by notice in writing served on the manager of a mine, require the manager to prepare special provisions, not inconsistent with this Act or the Regulations, to apply to the mine.

(2) Special provisions under this section shall take into account local conditions affecting the mine and may provide for -

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- (a) order and discipline;
- (b) the protection of health; and
- (c) the prevention of accidents,

at the mine.

(3) A notice under subsection (1) shall specify a time within which the special provisions are to be submitted to the Chief Government Mining Engineer.

(4) Where special provisions are submitted to the Chief Government Mining Engineer under this section, the Chief Government Mining Engineer shall -

- (a) approve the special provisions; or
- (b) if the Chief Government Mining Engineer does not consider the special provisions are adequate, give notice to the manager of the mine that the provisions should be altered as specified in the notice and re-submitted to the Chief Government Mining Engineer.

(5) Special provisions, when approved by the Chief Government Mining Engineer, shall apply to the mine for which they were prepared.

### PART XI - MISCELLANEOUS

#### 43. ENTRIES IN MINE RECORD BOOK

- (1) An entry in a mine record book shall be -
  - (a) of a permanent nature and not able to be easily obscured or obliterated; and
  - (b) signed and dated by the person making the entry.

(2) An entry in a mine record book shall not be altered or erased.

#### 44. SERVICE OF DOCUMENTS

A document required by or under this Act to be served on a person may be served -

- (a) on that person personally;
- (b) by certified mail; or
- (c) by leaving it at the person's last-known or most usual place of residence or business with some other person, apparently resident or employed there and who has apparently attained the age of 16 years.



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### 45. REVIEW OF DECISIONS

(1) The owner, agent or manager of a mine aggrieved by a decision of an inspector (not being the Chief Government Mining Engineer) may, not later than 7 days after being notified of the decision, request the Chief Government Mining Engineer to review that decision, and the Chief Government Mining Engineer may confirm, vary or rescind the inspector's decision.

(2) The owner, agent or manager of a mine who is aggrieved by a decision of the Chief Government Mining Engineer, including a decision under subsection (1), may, not later than 7 days after being notified of the decision, request the Board to review that decision.

(3) In reviewing a decision under subsection (2), the Board may confirm, vary or rescind the decision, and the Board's decision is final.

(4) A request under subsection (1) or (2) shall be in writing and state -

(a) the objection of the owner, agent or manager of the mine to complying with the decision; and

(b) the grounds of that objection.

(5) Notwithstanding that a request for a review has been made under this section, the owner, agent or manager of a mine shall comply with the decision in relation to which the review is sought.

(6) Where a decision of an inspector is varied under this section so as to require further compliance by the owner, agent or manager, then the owner, agent or manager shall comply with the decision as so varied.

(7) A member of the Board shall not sit at a meeting of the Board during such time as a decision of or relating to the member is being reviewed under this section.

(8) In this section, "decision" includes an instruction, direction or order given by, or a requirement of, an inspector in the exercise, or purported exercise, of the inspector's powers or the carrying out, or purported carrying out, of the inspector's duties under this Act.

### 46. CERTAIN OFFENCES

(1) A person shall not do anything to endanger the safety of a person at a mine.

(2) A person shall not wilfully do anything which causes or is likely to cause damage to machinery or property at a mine.

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(3) A person shall not remove from a mine, without approval from the manager of the mine, any equipment or material likely to cause harm to the public.

(4) Unless authorized by the manager of a mine, a person shall not alter, deface or remove a document posted at a mine in pursuance of this Act.

### 47. OFFENCE TO FALSELY CLAIM TO BE INSPECTOR

A person who falsely claims to be an inspector is guilty of an offence.

### 48. PENALTIES

(1) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence.

Penalty: \$10,000.

(2) Where a court, on convicting a person of an offence against a provision of this Act, is satisfied that the person has continued in breach of, or has not complied with, as the case may be, that provision after the date on which the offence was committed, the court may impose, in addition to the penalty specified in subsection (1), a further penalty, not exceeding \$1,000 for each day, after the first day, during which the offence continues.

### 49. REGULATORY OFFENCES

An offence against sections 7, 14(1) or (2), 18, 19, 22, 25, 29, 31, 36(2), 39(2), 40(2), (4), (5) or (6), 42(1), 43 or 45(5) or (6) is a regulatory offence.

### 50. PROCEEDINGS FOR OFFENCES

(1) A prosecution for an offence against this Act or the Regulations shall be commenced by, and prosecuted in, the name of the Chief Government Mining Engineer or an inspector authorized by the Chief Government Mining Engineer.

(2) The production of a document purporting to be signed by the Chief Government Mining Engineer purporting to authorize an inspector to institute a prosecution is evidence of the authority of that inspector to institute that prosecution.

### 51. LIABILITY OF PERSONS

(1) Where an offence against this Act committed by a person at a mine, other than by the owner, agent or manager of the mine, is proved to have been committed with the consent or connivance of, or to have been attributable to wilful neglect on the part of, the owner, agent or manager of the mine, that owner, agent or manager is also

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guilty of an offence and liable to the penalty for that offence.

(2) Where an offence against this Act committed by a body corporate is proved to have been committed, with the consent or connivance of, or to have been attributable to wilful neglect on the part of, an officer of the body corporate or person purporting to act as such an officer, that officer or person is also guilty of that offence and liable to the penalty for that offence.

(3) When, in proceedings under this Act, it is necessary to establish the intention of a body corporate, it is sufficient to show that an employee, officer or agent of the body corporate had that intention.

(4) In subsection (2), "officer", in relation to a body corporate, means -

- (a) a director, secretary or executive officer of the body corporate;
- (b) any person in accordance with whose direction or instruction the directors of the body corporate are accustomed to act; or
- (c) a person concerned in the management of the body corporate.

### 52. REGULATIONS

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Regulations may provide for, or be in relation to, the following:

- (a) the powers and duties of inspectors;
- (b) the safety or health of employees and other persons at mines;
- (c) the protection of the environment at mines;
- (d) the construction of buildings, plant and other structures (including dams and storage ponds) at mines, and the qualification, safety and welfare of persons engaged in such construction;

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- (e) the ventilation of mines and the prevention, suppression and control of dust and noise at mines;
- (f) the elimination or reduction of health hazards arising from radioactive or other substances at mines;
- (g) the conditions under which tailings from cyanide or other chemical process may be stored or used for the filling of stopes;
- (h) the prevention of the escape of poisonous or deleterious gases and fumes from any process at mines;
- (j) the control of the disposal of waste products (whether solid, liquid or gas) at mines;
- (k) ladders and ways of travel at mines;
- (m) the specifications for, and the construction, use and control of machinery at mines;
- (n) specifications for the control and use of explosives at mines;
- (p) the principles and practices of sanitation and hygiene to be observed at mines;
- (q) dredges at mines and the persons who may be in charge of dredges;
- (r) the generation, use and control of electricity at mines;
- (s) the mode of application for the grant of certificates, licences, permits and authorization;
- (t) the suspension, revocation, cancellation or restriction of certificates, licences, permits or other forms of authorization;
- (u) the grant of permits by a manager of a mine to permit persons employed at the mine to perform specific duties at the mine;
- (w) the prescribing of fees;
- (y) the preservation and protection of disused or abandoned mines;
- (z) the procedures to apply to a review of a decision under section 45;
- (za) the furnishing of returns, statistics and plans, and other particulars relating to the safety and

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health of employees and other persons at mines;  
and

- (zb) penalties for offences against the Regulations not exceeding \$10,000.

### 53. REPEAL

The Acts specified in the Schedule are repealed.

### 54. SAVINGS AND TRANSITIONAL

(1) The person who, immediately before the commencement of this Act, held the office of Director of Mines, within the meaning of the *Mines Safety Control Act*, shall, on that commencement, be the Director of Mines for the purposes of this Act as if the person was appointed under section 6(1)(a) on that commencement.

(2) The person who, immediately before the commencement of this Act, held the office of Chief Government Mining Engineer, within the meaning of the *Mines Safety Control Act*, shall, on that commencement, be the Chief Government Mining Engineer for the purposes of this Act as if the person was appointed under section 6(1)(b) on that commencement.

(3) A person who, immediately before the commencement of this Act, held the office of government mining engineer, within the meaning of the *Mines Safety Control Act*, shall, on that commencement, be a government mining engineer for the purposes of this Act as if the person was appointed under section 6(1)(c) on that commencement.

(4) A person who, immediately before the commencement of this Act, held the office of District Inspector or Special Inspector, within the meaning of the *Mines Safety Control Act*, shall, on that commencement, be a mines inspector for the purposes of this Act as if the person was appointed under section 6(1)(d) on that commencement.

(5) A person who, immediately before the commencement of this Act, was a member of the Board appointed under section 9(2)(c) or (d) of the *Mines Safety Control Act* shall, on that commencement, be a member of the Board for the purposes of this Act as if the person was appointed under section 8(2)(c) on that commencement for the remainder of the period for which the person was appointed as a member under the *Mines Safety Control Act*.

(6) A person who, immediately before the commencement of this Act, was a manager appointed under section 22, or a deputy manager appointed under section 24, of the *Mines Safety Control Act* shall, on that commencement, be a manager or deputy manager, as the case

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may be, for the purposes of this Act as if the person was appointed under section 12 on that commencement.

(7) A person who, immediately before the commencement of this Act, held a winding licence granted under section 45 of the *Mines Safety Control Act* shall, on that commencement, hold a winding licence for the purposes of this Act as if the person were granted a winding licence under section 26 on that commencement on the same conditions to which the licence was subject under the *Mines Safety Control Act*.

(8) Where, immediately before the commencement of this Act, special rules, within the meaning of the *Mines Safety Control Act*, applied to a mine, those special rules shall, on that commencement, be deemed to be special provisions applicable to that mine as if they were prepared and approved under section 42 on that commencement.

(9) Where, immediately before the commencement of this Act, there was in force in respect of a mine or part of a mine an exemption from the *Mines Safety Control Act* or specified provisions of that Act made under section 5(2) of that Act, that exemption shall, on that commencement, be an exemption from this Act or equivalent provisions, if any, of this Act, as the case may be, as if made under section 5(2) on that commencement.

(10) Where, immediately before the commencement of this Act, a person held a mine manager's certificate of competency, within the meaning of the *Mines Safety Control Act*, that person shall, on that commencement, hold a mine manager's certificate of competency for the purposes of this Act as if the person was granted a certificate under section 11 on that commencement for the same period for which it was granted, and on the same conditions to which it was subject, under the *Mines Safety Control Act*.

(11) The *Mines Safety Control (Radiation Protection) Regulations* and the *Mines Safety Control (Radioactive Wastes Management) Regulations*, as in force immediately before the commencement of this Act, shall continue in force under this Act as if made on that commencement and those Regulations may be amended or repealed under this Act.

(12) A person who, immediately before the commencement of this Act, held -

- (a) a blaster's permit issued under regulation 296;
- (b) a blaster's certificate of competency issued under regulation 298;
- (c) a driver's permit issued under regulation 400(2)(a); or

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(d) a driver's certificate of competency issued under regulation 401,

of the Mines Safety Control Regulations shall, on that commencement, hold an equivalent permit or certificate of competency, if any, granted under the Regulations as if the person was granted such permit or certificate on that commencement, and such permit or certificate may be cancelled or suspended in accordance with the Regulations.

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SCHEDULE

Section 53

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Number and year	Short title
No. 3, 1976	<i>Mines Safety Ordinance 1976</i>
No. 59, 1981	<i>Mines Safety Control Amendment Act 1981</i>

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