

The Mines Act, 1952
(35 OF 1952)

16/744

[15th March, 1952]

An Act to amend and consolidate the law relating to the regulation of labour and safety in mines.

Be it enacted by Parliament as follows:-

LEGISLATIVE HISTORY ▼

- Repealing and Amending Act, 1953 (42 of 1953)
- Repealing and Amending Act, 1957 (36 of 1957)
- Mines (Amendment) Act, 1959 (62 of 1959)
- Central Labour Laws (Extension to Jammu and Kashmir) Act, 1968 (25 of 1968)
- Mines (Amendment) Act, 1983 (42 of 1983)

FACT SHEET ▼

The Act has been extended to the Union territories of Goa, Daman and Diu by Regulation 12 of 1962 (Goa is now a State, see Act 18 of 1987, Section 3 (w.e.f. 30.5.1987) and to Pondicherry by Act 26 of 1968, Section 3 and Schedule.
2. Brought into force on 1.7.1952.

CHAPTER I

Preliminary

1. Short title, extent and commencement .-(1) This Act may be called The Mines Act, 1952.

(2) It extends to the whole of India [* * *]

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States but not later than 31st December, 1953.

Object & Reasons ▼

Statement of Objects and Reasons.-The existing Indian Mines Act which relates to the regulation and inspection of mines was passed in 1923. Although it has since been amended in certain respects, the general framework has remained unchanged. Experience of the working of the Act has revealed a number of defects and deficiencies which

hamper effective administration. Some of these necessitate new forms of control while others require the tightening up of the existing legal provisions. It has, therefore, been considered necessary to thoroughly overhaul the existing Act.

2. The proposed legislation differs from the existing law in certain respects. The more important features are mentioned below:-

- (i) At present workshops run by a mine or the maintenance of its machinery and plant in safe and efficient working order are subject to the Factories Act, 1948, which is administered by Provincial Governments. Workers in workshops such as fitters, blacksmiths, welders, electricians and others frequently work for a part of the shift underground and while so employed come within the scope of the Mines Act. It is inconvenient that the same personnel should be subject to two different Acts administered by two different authorities. It is now proposed to bring all personnel engaged solely on work relating to mines within the scope of the Mines Act. For similar reasons it is proposed to bring within the scope of the Mines Act power stations which generate power used wholly in connection with the mine concerned.
- (ii) Provision has been made in the Bill for the issue of certificates of fitness to adolescents and the appointment of certifying surgeons.
- (iii) The provisions in the existing Act regarding conservancy and sanitary conveniences are of a general nature. The Bill provides for more definite arrangements for drinking water, latrines, urinals, etc.
- (iv) It has been made obligatory on the part of the owner, agent or manager of a mine to report the contraction of any of certain notified diseases. Provision for the holding of an enquiry regarding the causes of contraction of a reported disease has also been made.
- (v) It has also been laid down that first-aid appliances should be made available underground and that they should be kept in charge of qualified personnel.
- (vi) A new Chapter regarding the grant of compensatory holidays and holidays with pay has been included.
- (vii) The existing Act does not specify the rate of payment

for overtime work. In the Bill the rates for overtime have been fixed at 1 1/2 times the ordinary rate of wages in the case of surface workers and at twice the ordinary rate for underground workers. The working hours for all workers, both surface and underground, have been reduced to 48 per week and no worker is to be allowed to work for more than 9 hours a day above ground and 8 hours a day below ground. The provisions in the existing Act permit workers on the surface to work for 54 hours a week or 10 hours a day and workers underground for 9 hours a day.

- (viii) It is proposed to prohibit after a certain date to be notified by the Central Government the presence of children in any part of a mine where operations connected with, or incidental to, mining processes are being carried on. The intention is that the presence of children at mines should be prohibited as soon as arrangements for the provision of elementary education can be made in collieries.
- (ix) The age limit of persons employed underground has been raised from 17 to 18 years.
- (x) At present the penalty for violation of the provisions of the Act is only a fine. It is proposed to provide that the punishment may be imprisonment or fine or both. This will bring the penalty provisions in line with the penalties prescribed in the Factories Act, 1948.
- (xi) The employment of women underground is already prohibited. This prohibition will be continued. The employment of women on the surface between the hours of 7 p.m. and 6 a.m. will also be prohibited but Provincial Government will be empowered to relax these limits but not so as to authorise working between the hours of 10 p.m. and 5 a.m.
- (xii) Opportunity has also been taken to include in the Bill provisions relating to health, safety and comfort of workers somewhat on the lines of the Factories Act, 1948.

3. It is hoped that when the Bill is passed into law the provisions regulating labour and safety in mines will largely be on the lines of those contained in the Factories Act, 1948.

Amendment Act 62 of 1959-Statement of Objects and Reasons.-The Mines Act, 1952, was passed with a view to

amending and consolidating the law relating to the regulation of labour and safety in mines. The working of the Act has shown that it requires to be amended for various reasons, e.g., clarification of certain provisions, proper enforcement of certain orders and insertion of some new provisions to bring the Act in line with those contained in the Factories Act, 1948. Some of the more important amendments sought to be made relating to

- (i) the definition of the term "mine" to make it clear that it includes quarries and opencast workings and also private railways, aerial ropeways, conveyors, etc.,
- (ii) a new provision to the effect that subject to certain conditions, the Act (excepting a few provisions) shall not apply to excavations made for prospecting purposes only and to small quarries;
- (iii) the maintenance of first-aid rooms in mines wherein more than one hundred and fifty persons are employed, instead of five hundred persons as at present;
- (iv) the prohibition of employment of persons in a mine when its owner, etc., fail to comply with the notice of the Inspectorate for remedying any matter, thing or practice connected with a mine, which is dangerous to human life, limb, or safety;
- (v) the empowering of the person appointed under section 24 for inquiring into an accident also to inquire into the fitness of a person to hold a certificate granted to him under the Act, if he is of the opinion that the person concerned is prima facie guilty of incompetence or negligence or misconduct in the performance of his duties under the Act in relation to the accident;
- (vi) the payment of overtime at a uniform rate of twice the ordinary rate of wages for persons employed both above and below ground, instead of the present rate of one and a half times, in the case of persons employed above ground, and twice, for persons employed below ground;
- (vii) the revision of the Chapter on leave with wages so as to bring it as far as practicable in line with similar provisions in the Factories Act, 1948, which are considered to be more liberal; and
- (viii) the enhancement of penalties for contravention of

the different provisions of the Act to make punishment more deterrent by raising the scale of fines and also providing for imprisonment alongwith fine in the case of subsequent convictions for the same offence and for contravention of orders under section 22.

Amendment Act 42 of 1983-Statement of Objects and Reasons.-The Mines Act, 1952 seeks to regulate the working condition in mines by providing for measures to be taken for the safety of the workers employed therein and certain amenities for them. In the light of the working of the Act, certain modifications of the provisions of the Act have become necessary. They mainly relate to (1) the removal of certain practical difficulties experienced in its enforcement; (2) provision for additional safety regulations; (3) closer association of workers with safety measures; (4) provisions for a minimum penalty in case of gross negligence or recklessness; and (5) increase in the levy of the cess for the administration of central rescue stations.

2. Definitions .- [(1)] In this Act, unless the context otherwise requires,-
[* * *]

(b) "adult" means a person who has completed his eighteenth year;

[(c) "agent", when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of the mine or of any part thereof;]

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

[(e) "Committee" means a Committee constituted under section 12;]

(f) "day" means a period of twenty-four hours beginning at midnight;

(g) "District Magistrate" means, in a Presidency-town, the person appointed by the Central Government to perform the duties of a District Magistrate under this Act in that town;

[(h) a person is said to be "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not-

(i) in any mining operation (including the concomitant operations of handling and transport of minerals upto the point of despatch and of gathering sand and transport thereof to the mine);

- (ii) in operations or services relating to the development of the mine including construction of plant therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;
 - (iii) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;
 - (iv) in operations, within the premises of the mine, of loading for despatch of minerals;
 - (v) in any office of the mine;
 - (vi) in any welfare, health, sanitary or conservancy services required to be provided under this Act, or watch and ward, within the premises of the mine excluding residential area; or
 - (vii) in any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations;]
- (i) "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;

[* * *]

- [(j) "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-
- (i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;
 - (ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;
 - (iii) all levels and inclined planes in the course of being driven;
 - (iv) all open cast workings;
 - (v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;
 - (vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;
 - (vii) all protective works being carried out in or adjacent to a mine;
 - (viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;

- (ix) all power stations, transformer sub-stations, convertor stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;
- (x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand, refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;
- (xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;]
- (jj) "minerals" means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicing, quarrying or by any other operation and includes mineral oils (which in turn include natural gas and petroleum);
- [* * *]
- (k) "office of the mine" means an office at the surface of the mine concerned;
- [(kk) "open cast working" means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;]
- (l) "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 and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver [* * *]; 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 or sub-lessee] 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;
- (m) "prescribed" means prescribed by rules, regulations or bye-laws, as the case may be;
- [(n) "qualified medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956) and who is enrolled on a State medical register as defined in clause (k) of that section;]

- (o) "regulations", "rules" and "bye-laws" means respectively regulations, rules and bye-laws made under this Act;
- (p) where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a "relay" [and each of such periods is called a "shift"];
- [(pp) "reportable injury" means any injury other than a serious bodily injury which involves or in all probability will involve, the enforced absence of the injured person from work for a period of seventy-two hours or more;]
- [(q) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;
- (r) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector or an Inspector.]

[(2) A person working or employed in or in connection with a mine is said to be working or employed-

- (a) "below ground" if he is working or employed-
 - (i) in a shaft which has been or is in the course of being sunk; or
 - (ii) in any excavation which extends below superjacent ground; and
- (b) "above ground" if he is working in an open cast working or in any other manner not specified in clause (a)].

[3. Act not to apply in certain cases .-(1) The provisions of this Act, except those contained in][sections 7, 8, 9, 40, 45 and 46][, shall not apply to-

- (a) any mine or part thereof in which excavation is being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale:

Provided that-

- (i) not more than twenty persons are employed on any one day in connection with any such excavation;
- (ii) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres or, in the case of an excavation for coal, fifteen metres; and
- (iii) no part of such excavation extends below superjacent ground; or

(b) any mine engaged in the extraction of *kankar, murrum*, laterite, boulder, gravel, single, ordinary sand (excluding moulding sand, glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone,] [slate][, road metal, earth, fullers earth,] [marl, chalk][and limestone:

Provided that-

(i) the workings do not extend below superjacent ground; or

(ii) where it is an open cast working-

(a) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres;

(b) the number of persons employed on any one day does not exceed fifty; and

(c) explosives are not used in connection with the excavation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that, having regard to the circumstances obtaining in relation to a mine or part thereof or group or class of mines, it is necessary or desirable so to do, by notification in the Official Gazette, declare that any of the provisions of this Act, not set out in sub-section (1), shall apply to any such mine or part thereof or group or class of mines or any class of persons employed therein.

(3) Without prejudice to the provisions contained in sub-section (2), if at any time any of the conditions specified in the proviso to clause (a) or clause (b) of sub-section (1) is not fulfilled in relation to any mine referred to in that sub-section, the provisions of this Act not set out in sub-section (1), shall become immediately applicable, and it shall be the duty of the owner, agent or manager of the mine to inform the prescribed authority in the prescribed manner and within the prescribed time about the non-fulfilment.]

4. References to time of day .-In this Act, references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time:

Provided that, for any area in which Indian Standard Time is not ordinarily observed, the Central Government may make rules-

(a) specifying the area;

(b) defining the local mean time ordinarily observed therein; and

(c) permitting such time to be observed in all or any of the mines situated in the area.

CHAPTER II

Inspectors And Certifying Surgeons

5. Chief Inspector and Inspectors .-(1) The Central Government may, by notification in the Official Gazette, appoint such a person as possesses the

prescribed qualifications to be Chief Inspector of Mines for all the territories to which this Act extends and such persons as possess the prescribed qualifications to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to the 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 India.

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

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by [section 22 or section 22-A] or section 61.

(4) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

[6. Functions of Inspectors .-(1) The Chief Inspector may, with the approval of the Central Government and subject to such restrictions or conditions as he may think fit to impose, by order in writing, authorise any Inspector named or any class or Inspectors specified in the order to exercise such of the powers of the Chief Inspector under this Act (other than those relating to appeals) as he may specify.

(2) 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 under this Act.

(3) Subject to the other provisions contained in this section, the Chief Inspector shall 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.]

7. Powers of Inspectors of mines .-(1) 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 time by day or night:

Provided that the power conferred by this clause shall not be exercised in such a manner 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 health, safety and welfare of the persons employed in the mine, and

take whether on the precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

- (d) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(2) The Chief Inspector and any Inspector may, if he has reason to believe, as a result of any inspection, examination or inquiry under this section, that an offence under this Act has been or is being committed, search any place and take possession [of any material or any plan, section, register or other record] appertaining to the mine, and the provisions of the [Code of Criminal Procedure, 1973 (2 of 1974)] shall, so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under [section 94] of that Code.

8. Powers of special officer to enter, measure, etc .-Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may, for the purpose of surveying, levelling or measuring any mine [or any output therefrom], 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 or any output therefrom], at any time by day or night:

Provided that, where in the opinion of the Chief Inspector or of an Inspector an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

9. Facilities to be afforded to Inspectors .-Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

[9-A. Facilities to be provided for occupational health survey .-(1) The Chief Inspector or an Inspector or other officer authorised by him in writing in this behalf may, at any time during the normal working hours of the mine or at any time by day or night as may be necessary, undertake safety and occupational health survey in a mine after giving notice in writing to the manager of the mine; and the owner, agent or manager of the mine shall afford all necessary facilities (including facilities for the examination and testing of plant and machinery, for the collection of samples and other data pertaining to the survey and for the transport and examination of any person employed in the mine chosen for the survey) to such Inspector or officer.

(2) Every person employed in a mine who is chosen for examination in any safety and occupational health survey under sub-section (1) shall present himself for such examination and at such place as may be necessary and shall furnish all information regarding his work and health in connection with the said survey.

(3) The time spent by any person employed in a mine who is chosen for examination in the safety and occupational health survey, shall be counted towards his working time, so however, that any overtime shall be paid at the ordinary rate of wages.

Explanation .-For the purposes of this sub-section, "ordinary rate of wages" means the basic wages *plus* any dearness allowance and underground allowance and compensation in cash including such compensation, if any, accruing through the free issue of foodgrains and edible oils as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus (other than a bonus given as incentive for production) or any compensation accruing through the provision of amenities such as free housing, free supply of coal, medical and educational facilities, sickness allowance, supply of kerosene oil, baskets, tools and uniforms.

(4) Any person who, on examination under sub-section (2), is found medically unfit to discharge the duty which he was discharging in a mine immediately before such presentation shall be entitled to undergo medical treatment at the cost of the owner, agent and manager with full wages during the period of such treatment.

(5) If, after the medical treatment, the person referred to in sub-section (4) is declared medically unfit to discharge the duty which he was discharging in a mine immediately before presenting himself for the said examination and such unfitness is directly ascribable to his employment in the mine before such presentation, the owner, agent and manager shall provide such person with an alternative employment in the mine for which he is medically fit:

Provided that where no such alternative employment is immediately available, such person shall be paid by the owner, agent and manager disability allowance determined in accordance with the rates prescribed in this behalf:

Provided further that where such person decides to leave his employment in the mine, he shall be paid by the owner, agent and manager a lump sum amount by way of disability compensation determined in accordance with the rates prescribed in this behalf.

(6) The rates under the provisos to sub-section (5) shall be determined having regard to the monthly wages of the employees, the nature of disabilities and other related factors.]

10. Secrecy of information obtained .-(1) All copies of, and extracts from, registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection [or survey] of any mine under

this Act or acquired by any person authorised under section 8 [or section 9-A] in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information (if so required) to-

(a) any Court;

[(b) a Committee or Court of inquiry constituted or appointed under section 12 or section 24, as the case may be;]

(c) an official superior or the owner, agent or manager of the mine concerned;

(d) a Commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (8 of 1923);

[(e) the Controller, Indian Bureau of Mines;

(f) any registered or recognised Trade Union;

(g) such other officer, authority or organisation as may be specified in this behalf by the Central Government.]

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

(4) No Court shall be proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

11. Certifying surgeons .-(1) The Central Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(2) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process of business carried on therein or in any patent or

machinery connected therewith, or is otherwise in the employment of the mine.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with-

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(b) the examination of persons engaged in a mine in such dangerous occupations or processes as may be prescribed;

(c) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where-

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in the mine;

[* * *]

CHAPTER III

[COMMITTEES]

12. Committees .-(1) The Central Government shall, with effect from such date as that Government may, by notification in the Official Gazette, specify in this behalf, constitute for the purposes of this Act, a Committee consisting of-

(a) a person in the service of the Government, not being the Chief Inspector or an Inspector, appointed by the Central Government to act as Chairman;

(b) the Chief Inspector of Mines;

(c) two persons to represent the interests of miners appointed by the Central Government;

(d) two persons to represent the interests of owners of mines appointed by the Central Government;

(e) two qualified mining engineers not directly employed in the mining industry, appointed by the Central Government:

Provided that one atleast of the persons appointed under clause (c) shall be for representing the interests of workers in coal mines and one atleast of the persons appointed under clause (d) shall be for representing the interests of owners of coal mines.

(2) Without prejudice to the generality of sub-section (1), the Central Government may constitute one or more Committees to deal with specific matters relating to any part of the territories to which this Act extends or to a mine or a group of mines and may appoint members thereof and the provisions of sub-section (1) (except the proviso thereto) shall apply for the

constitution of any Committee under this sub-section as they apply for the constitution of a Committee under that sub-section.

(3) No act or proceeding of a Committee shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

13. Functions of the Committee .-(1) The Committee constituted under sub-section (1) of section 12 shall-

(a) consider proposals for making rules and regulations under this Act and make appropriate recommendations to the Central Government;

(b) enquire into such accidents or other matters as may be referred to it by the Central Government from time to time and make reports thereon; and

(c) subject to the provisions of sub-section (2), hear and decide such appeals or objections against notices or orders under this Act or the regulations, rules or bye-laws thereunder, as are required to be referred to it by this Act or as may be prescribed.

(2) The Chief Inspector shall not take part in the proceedings of the Committee with respect to any appeal or objection against an order or notice made or issued by him or act in relation to any matter pertaining to such appeal or objection as a member of the Committee.

14. Powers, etc., of the Committees .-(1) A Committee constituted under section 12 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purposes of discharging its functions under this Act.

(2) A Committee constituted under section 12 shall, for the purposes of discharging its functions, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:-

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) compelling the production of documents; and

(d) such other matters as may be prescribed.

15. Recovery of expenses .-The Central Government may direct that the expenses of any inquiry conducted by [a Committee constituted under section 12] 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:

Provided that the owner or his agent has not paid the amount within six weeks from the date of receiving the notice from the Central Government or the Chief Inspector of Mines.

CHAPTER IV

Mining Operations And Management Of Mines

16. Notice to be given of mining operations .-(1) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give to the Chief Inspector, the [Controller], Indian Bureau of Mines and the District Magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation.

[17. Managers .-(1) Save as may be otherwise prescribed, every mine shall be under a sole manager who shall have the prescribed qualifications and the owner or agent of every mine shall appoint a person having such qualifications to be the manager:

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications.

(2) Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

(3) Except in case of an emergency, the owner or agent of a mine or anyone on his behalf shall not give, otherwise than through the manager, instructions affecting the fulfilment of his statutory duties, to a person, employed in a mine, who is responsible to the manager.

18. Duties and responsibilities of owners, agents and managers .-(1) The owner and agent of every mine shall each be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Act and the regulations, rules, bye-laws and orders made thereunder.

(2) The responsibility in respect of matters provided for in the rules made under clauses (d), (e) and (p) of section 58 shall be exclusively carried out by the owner and agent of the mine and by such person (other than the manager) whom the owner or agent may appoint for securing compliance with the aforesaid provisions.

(3) If the carrying out of any instructions given under sub-section (2) or given otherwise than through the manager under sub-section (3) of section

17, results in the contravention of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder, every person giving such instructions shall also be liable for the contravention of the provisions concerned.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the owner, agent and manager of every mine shall each be responsible to see that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the regulations, rules, bye-laws and orders made thereunder.

(5) In the event of any contravention by any person whatsoever of any of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention:-

- (i) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;
- (ii) the manager of the mine;
- (iii) the owner and agent of the mine;
- (iv) the person appointed, if any, to carry out the responsibility under sub-section (2):

Provided that any of the persons aforesaid may not be proceeded against if it appears on inquiry and investigation, that he is not *prima facie* liable.

(6) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Act or that a person to carry the responsibility under sub-section (2) has been appointed.]

CHAPTER V

Provisions As To Health And Safety

19. Drinking water .- [(1) In every mine effective arrangements shall be made to provide and maintain at suitable points conveniently situated a sufficient supply of cool and wholesome drinking water for all persons employed therein:

Provided that in the case of persons employed below ground the Chief Inspector may, in lieu of drinking water being provided and maintained at suitable points, permit any other effective arrangements to be made for such supply.]

(2) All such points shall be legibly marked "DRINKING WATER" in a language understood by a majority of the persons employed in the mine and no such point shall be situated within [six metres] of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(3) In respect of all mines or any class or description of mines, the Central Government may make rules for securing compliance with the provisions of sub-sections (1) and (2) and for the examination by prescribed authorities of the supply and distribution of drinking water.

20. Conservancy .-(1) There shall be provided, separately for males and females in every mine, a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

(2) All latrines and urinals provided under sub-section (1) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(3) The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations in this regard of persons employed in the mine) as it may consider necessary in the interests of the health of the persons so employed.

[21. Medical appliances .-(1) In every mine there shall be provided and maintained so as to be readily accessible during all working hours such number of first-aid boxes or cupboards equipped with such contents as may be prescribed.

(2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard or room.

(3) Every first-aid box or cupboard shall be kept in the charge of a responsible person who is trained in such first-aid treatment as may be prescribed and who shall always be readily available during the working hours of the mine.

(4) In every mine there shall be made so as to be readily available such arrangements as may be prescribed for the conveyance to hospitals or dispensaries of persons who, while employed in the mine, suffer bodily injury or become ill.

(5) In every mine wherein more than one hundred and fifty persons are employed, there shall be provided and maintained a first-aid room of such size with such equipment and in the charge of such medical and nursing staff as may be prescribed.

22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous .-(1) If, in respect of any matter for which no express provision

is made by or under this Act, it appears to the Chief Inspector or an

Inspector that any mine or part thereof or any matter, thing or practice in or connected with the mine, or with the control, supervision, 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 respect of 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 and in such manner as he may specify in the notice.

(1-A) Where the owner, agent or manager of a mine fails to comply with the terms of a notice given under sub-section (1) within the period specified therein, the Chief Inspector or the Inspector, as the case may be, may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice.

(2) Without prejudice to the provisions contained in sub-section (1), the Chief Inspector or the Inspector, as the case may be, may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars or blocks of minerals in any mine or part thereof, if in his opinion, such operation is likely to cause the crushing of pillars or blocks of minerals or the premature collapse of any part of the working or otherwise endanger the mine or the life or safety of persons employed therein or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by fire or flooding.

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

[(3-A) Every person whose employment is prohibited under sub-section (1-A) or sub-section (3) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition in employment and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited.]

[(4) Where a notice has been given under sub-section (1) or an order made under sub-section (1-A), sub-section (2) or sub-section (3) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the notice or order, as the case may be, appeal against the same to the Chief Inspector who may confirm, modify or cancel the notice or order.

(5) The Chief Inspector or the Inspector sending a notice under sub-section (1) or making an order under sub-section (1-A), sub-section (2) or sub-section (3) and the Chief Inspector making an order (other than an order of cancellation in appeal) under sub-section (4) shall forthwith report the same to the Central Government.

(6) If the owner, agent or manager of the mine objects to a notice sent under sub-section (1) by the Chief Inspector or to an order made by the Chief Inspector under sub-section (1-A) or sub-section (2) or sub-section (3) or sub-section (4), 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 on appeal, as the case may be, send his objection in writing stating the grounds thereof to the Central Government] [which shall, ordinarily within a period of two months from the date of receipt of the objection, refer][the same to a Committee.

(7) Every notice under sub-section (1), or order under sub-section (1-A), sub-section (2), sub-section (3) or sub-section (4), to which objection is made under sub-section (6), 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] [notice][under sub-section (1), pending its decision on the objection.

(8) Nothing in this section shall affect the powers of a Magistrate under section 144 of the] [Code of Criminal Procedure, 1898 (5 of 1898)].

[22-A. Power to prohibit employment in certain cases .-(1) Where in respect of any matter relating to safety for which express provision is made by or under this Act, the owner, agent or manager of a mine fails to comply with such provisions, the Chief Inspector may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter.

(2) Where the owner, agent or manager fails to comply with the terms of a notice given under sub-section (1) within the period specified in such notice or, as the case may be, within the extended period of time specified under that sub-section, the Chief Inspector may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice.

(3) Every person whose employment is prohibited under sub-section (2), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-section (2).

(4) The provisions of sub-sections (5), (6) and (7) of section 22 shall apply in relation to a notice issued under sub-section (1) or an order made under sub-section (2) of this section as they apply in relation to a notice under sub-section (1) or an order under sub-section (1-A) of that section.]

23. Notice to be given of accidents .- [(1) Whenever there occurs in or about a mine-

- (a) an accident causing loss of life or serious bodily injury, or
- (b) an explosion, ignition, spontaneous heating, outbreak of fire or irruption or inrush of water or other liquid matter, or
- (c) an influx of inflammable or noxious gases, or
- (d) a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or
- (e) an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised, or
- (f) a premature collapse of any part of the workings, or
- (g) any other accident which may be prescribed, the owner, agent or manager of the mine shall give notice of the occurrence to such authority in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by Trade Union officials, and shall ensure that the notice is kept on the board for not less than fourteen days from the date of such posting.]

[(1-A) Whenever there occurs in or about a mine an accident causing reportable injury to any person, the owner, agent or manager of the mine shall enter in a register such occurrence in the prescribed form and copies of such entries shall be furnished to the Chief Inspector once in a quarter.]

(2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the authority shall make an inquiry into the occurrence within two months of the receipt of the notice and, if the authority is not the Inspector, he shall cause the Inspector to make an inquiry within the said period.

[(3) The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-sections (1) and (1-A)

which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding twenty-four hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1) or sub-section (1-A), as the case may be.]

(4) A copy of the entries in the register referred to in sub-section (3) shall be sent by the owner, agent or manager of the mine, [on or before the 20th day of January in the year following that to which the entries relate], to the Chief Inspector.

[(5) Whenever there occurs in or about a mine an accident causing loss of life or serious bodily injury to any person, the place of accident shall not be disturbed or altered before the arrival or without the consent of the Chief Inspector or the Inspector to whom notice of the accident is required to be given under sub-section (1) of section 23, unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased, or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine:

Provided that where the Chief Inspector or the said Inspector fails to inspect the place of accident within seventy-two hours of the time of the accident, work may be resumed at the place of the accident.]

24. Power of Government to appoint Court of inquiry in cases of accidents .- [(1) When any accident of nature referred to in any of the clauses of sub-section (1) of section 23 occurs in or about a mine, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint one or more persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.]

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects [* * *].

(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 Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

25. Notice of certain diseases .-(1) Where any person employed in a mine contracts any [disease] notified by the Central Government in the Official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof

to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a mine and, who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (1), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating-

(a) the name and address of the patient,

(b) the disease from which the patient is or is believed to be suffering, and

(c) the name and address of the mine in which the patient is or was last employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying surgeon or otherwise that the person is suffering from a disease notified under sub-section (1), the Chief Inspector shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

26. Power to direct investigation of causes of disease .-(1) The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it on any case where a disease notified under sub-section (1) of section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The provisions of sub-sections (2) and (3) of section 24 shall apply to an inquiry under this section in the same manner as they apply to any inquiry under that section.

27. Publication of reports .-The Central Government may cause any report submitted by a Committee under [section 12] or any report or extracts from any report submitted to it under section 26, and shall cause every report submitted by a Court of inquiry under section 24 to be published at such time and in such manner as it may think fit.

CHAPTER VI

Hours And Limitation Of Employment

28 Weekly day of rest .-No person shall be allowed to work in a mine on more than six days in any one week.

29. Compensatory days of rest .-(1) Where in pursuance of action under section 38 or as a result of exempting any mine or the persons employed therein the provisions of section 28, any person employed therein is deprived of any of the weekly days of rest for which provision is made in section 28, he shall be allowed, within the month in which such days of rest were due to him or within the two months immediately following that month, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(2) The Central Government may prescribe the manner in which the days of rest for which provision is made in sub-section (1) shall be allowed.

30. Hours of work above ground .-(1) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day:

[Provided that, subject to the previous approval of the Chief Inspector, the daily maximum hours specified in this sub-section may be exceeded in order to facilitate the change of shifts.]

(2) The periods of the work of any such adult shall be so arranged that, alongwith his interval for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than five hours continuously before he has had an interval for rest of atleast half an hour:

[Provided that the Chief Inspector may, for reasons to be recorded in writing and subject to such conditions as he may deem fit to impose, permit the spread over to extend over a period not exceeding fourteen hours in any day.]

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

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

[31. Hours of work below ground .-(1) No adult employed below ground in a mine shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day:

Provided that, subject to the previous approval of the Chief Inspector, the daily maximum hours specified in this sub-section may be exceeded in order to facilitate the change of shifts.

(2) No work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of work for each shift is not spread over more than the daily maximum hours stipulated in sub-section (1).

(3) No person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained under sub-section (4) of section 48.]

[32. Night shift .-Where a person employed in a mine works on a shift which extends beyond midnight-

(a) for the purposes of sections 28 and 29, a weekly day of rest shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.]

33. Extra wages for overtime .- [(1) Where in a mine a person works above ground for more than nine hours in any day, or works below ground for more than eight hours in any day or works for more than forty-eight hours in any week whether above ground or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages, the period of overtime work being calculated on a daily basis or weekly basis, whichever is more favourable to him.]

[(2) Where any person employed in a mine is paid on piece-rate basis, the time-rate shall be taken as equivalent to the daily average of his full time earnings for the days on which he actually worked during the week immediately preceding the week in which overtime work has been done, exclusive of any overtime, and such time-rate shall be deemed to be the ordinary rate of wages of such person:

Provided that if such person has not worked in the preceding week on the same or identical job, the time-rate shall be based on the average for the days he has worked in the same week excluding the overtime or on the daily average of his earnings in any preceding week, whichever is higher.

Explanation .-For the purposes of this section, "ordinary rate of wages" shall have the same meaning as in the *Explanation* to sub-section (3) of section 9-A.]

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

[34. Prohibition of employment of certain persons .-No person shall be required or allowed to work in a mine if he has already been working in any other mine within the preceding twelve hours.]

[35. Limitation of daily hours of work including overtime work .-Save in respect of cases falling within clause (a) and clause (e) of section 39, no person employed in a mine shall be required or allowed to work in the mine for more than ten hours in any day inclusive of overtime.]

36. Notices regarding hours of work .-(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.

(2) In the case of a mine at which mining operations commence after the commencement of this Act, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) The notice referred to in sub-section (1) shall also state the time of the commencement and of the intervals for rest for persons employed above ground and a copy thereof shall be sent to the Chief Inspector, if he so requires.

(4) 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.

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

37. Supervising staff .-Nothing in section 28, section 30, section 31, section 34 or [sub-section (5) of section 36], 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.

38. Exemption from provisions regarding employment .-(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment, of the mine as the result of breakdown of such machinery, plant or equipment, the manager may, subject to the provisions of section 22 [and section 22-A] and in accordance with the rules under section 39, permit persons to be employed in contravention of section 28, section 30, section 31, section 34, or [sub-section (5) of section 36], on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of [mineral] would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(2) Every case in which action has been taken by the manager under sub-section (1), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector.

[39. Power to make exempting rules .-] [The Central Government][may make rules providing for the exemption to such extent, in such circumstances and subject to such conditions as may be specified from the provisions of sections 28, 30, 31, 34 or sub-section (5) of section 36-

- (a) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;
- (b) of all or any of the persons so employed, in case of an accident, actual or apprehended;
- (c) of all or any of the persons engaged in work of a preparatory or complementary nature, which must necessarily be carried on for the purpose of avoiding serious interference with the ordinary working of the mine;
- (d) of all or any of the persons engaged in urgent repairs; and
- (e) of all or any of the persons employed in any work which for technical reasons must be carried on continuously.]

[40. Employment of persons below eighteen years of age .-(1) After the commencement of the Mines (Amendment) Act, 1983, no person below eighteen years of age shall be allowed to work in any mine or part thereof.

(2) Notwithstanding anything contained in sub-section (1), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager:

Provided that in the case of trainees, other than apprentices, prior approval of the Chief Inspector or an Inspector shall be obtained before they are allowed to work.

*Explanation .-*In this section and in section 43, "apprentice" means an apprentice as defined in clause (a) of section 2 of the Apprentices Act, 1961 (52 of 1961).]

41. Certificate of fitness .-[*Omitted by the Mines (Amendment) Act , 1983 (42 of 1983), section 23 (w.e.f.31-5-1984).*]

42. Effect of certificate of fitness granted to adolescents .-[*Omitted by the Mines (Amendment) Act , 1983 (42 of 1983), section 23 (w.e.f.31-5-1984).*]

[43. Power to require medical examination .-(1) Where an Inspector is of opinion that any person employed in a mine otherwise than as an apprentice or other trainee is not an adult or that any person employed in a mine as an apprentice or other trainee is either below sixteen years of age or is no longer fit to work, the Inspector may serve on the manager of the mine a notice requiring that such person shall be examined by a certifying surgeon and such person shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been certified that he is an adult or, if such person is an apprentice or trainee, that he is not below sixteen years of age and is fit to work.

(2) Every certificate granted by a certifying surgeon on a reference under sub-section (1), shall, for the purpose of this Act, be conclusive evidence of the matters referred therein.]

44. Working hours for adolescent not certified to be fit for work as adults .-[*Omitted by the Mines (Amendment) Act , 1983 (42 of 1983), section 25 (w.e.f.31-5-1984).*]

[45. Prohibition of the presence of persons below eighteen years of age in a mine .-Subject to the provisions of sub-section (2) of section 40, after such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no person below eighteen years of age shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.]

[46. Employment of women .-(1) No woman shall, notwithstanding anything contained in any other law, be employed-

(a) in any part of a mine which is below ground;

(b) in any mine above ground except between the hours of 6 A.M. and 7 P.M.

(2) Every woman employed in a mine above ground shall be allowed an interval of not less than eleven hours between the termination of employment on any one day and the commencement of the next period of employment.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, by][notification] [in the Official Gazette, vary the hours of employment above ground of women in respect of any mine or class or description of mine, so however, that no employment of any woman between the hours of 10 P.M. and 5 A.M. is permitted thereby.]

47. Disputes as to age .-[*Repealed by the Mines (Amendment) Act, 1959 (62 of 1959), section 28 (w.e.f. 16-1-1960).*]

48. Registers of persons employed .- [(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 name of the employee with the name of his father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;

(b) the age and sex of the employee;

(c) the nature of employment (whether above ground or below ground, and if above ground, whether in open cast workings or otherwise) and the date of commencement thereof;]

[* * * *]

[(e) such other particulars as may be prescribed;

and the relevant entries shall be authenticated by the signature or the thumb-impression of the person concerned.]

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

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

[(4) For every mine other than a mine which, for any special reason to be recorded, is exempted by the Central Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine-

(a) below ground;

(b) above ground in open cast working; and

(c) above ground in other cases-

(i) the name of the employee;

(ii) the class or kind of his employment;

(iii) where work is carried on by a system of relays, the shift to which he belongs and the hours of the shift.]

(5) The register of persons employed below ground referred to in sub-section (4) shall show at any moment the name of every person who is then present below ground in the mine.

[(6) No person shall enter any open cast working or any working below ground unless he has been permitted by the manager or is authorised under this Act or any other law to do so.]

CHAPTER VII

Leave With Wages

[49. Application of Chapter .-The provisions of this Chapter shall not operate to the prejudice of any right to which a person employed in a mine may be entitled under any other law or under the terms of any award, agreement or contract of service:]

[Provided that if such award, agreement or contract of service, provides for a longer annual leave with wages than that provided in this Chapter, the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service, but leave shall be regulated in accordance with the provisions of sections 50 to 56 (both inclusive) with respect to matters not provided for in such award, agreement or contract of service.]

[50. Leave defined .-For the purposes of this Chapter, leave shall not include weekly days of rest or holidays for festivals or other similar occasions whether occurring during or at either end of the period of leave.

51. Calendar year defined .-For the purposes of this Chapter, a calendar year shall mean the period of twelve months beginning with the first day of January in any year.

52. Annual leave with wages .-(1) Every person employed in a mine who has completed a calendar year's service therein shall be allowed, during the subsequent calendar year, leave with wages, calculated,-

(a) in the case of a person employed below ground, at the rate of one day for every][fifteen days] [of work performed by him, and

(b) in any other case, at the rate of one day for every twenty days of work performed by him.

(2) A calendar year's service referred to in sub-section (1) shall be deemed to have been completed,-

(a) in the case of a person employed below ground in a mine, if he has during the calendar year put in not less than one hundred and ninety attendances at the mine; and

(b) in the case of any other person, if he has during the calendar year put in not less than two hundred and forty attendances at the mine.

*Explanation .-*For the purpose of this sub-section-

(a) any days of lay-off by agreement or contract or as permissible under the standing order;

(b) in the case of a female employee, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed, shall be deemed to be the days on which the employee has worked in a mine for the purpose of computation of the attendances, but shall not earn leave for these days.

(3) A person whose service commences otherwise than on the first day of January shall be entitled to leave with wages in the subsequent calendar year at the rates specified in sub-section (1), if-

(a) in the case of a person employed below ground in a mine, he has put in attendances for not less than one-half of the total number of days during the remainder of the calendar year; and

(b) in any other case, he has put in attendances for not less than two-thirds of the total number of days during the remainder of the calendar year.

(4) Any leave not taken by a person to which he is entitled in any one calendar year under sub-section (1) or sub-section (3) shall be added to the

leave to be allowed to him under sub-section (1) during the succeeding calendar year:

Provided that the total number of days of leave which may be accumulated by any such person shall not at any one time exceed thirty days in all:

Provided further that any such person who has applied for leave with wages but has not been given such leave in accordance with sub-section (6) shall be entitled to carry forward the unavailed leave without any limit.

(5) Any such person may apply in writing to the manager of the mine not less than fifteen days before the day on which he wishes his leave to begin, for all leave or any portion thereof then allowable to him under sub-sections (1), (3) and (4):

Provided that the number of times in which leave may be taken during any one calendar year shall not exceed three.

(6) An application for such leave made in accordance with sub-section (5) shall not be refused unless the authority empowered to grant the leave is of opinion that owing to the exigencies of the situation the leave should be refused.

(7) If a person employed in a mine wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (5).

(8) If the employment of a person employed in a mine is terminated by the owner, agent or manager of the mine before he has taken the entire leave to which he is entitled up to the day of termination of his employment, or if such person having applied for and having not been granted such leave, quits his employment before he has taken the leave, the owner, agent or manager of the mine shall pay him the amount payable under section 53, in respect of the leave not taken, and such payment shall be made, where the employment of the person is terminated by the owner, agent or manager, before the expiry of the second working day after such termination, and where a person himself quits his employment, on or before the next pay day.

(9) The unavailed leave of a person employed in a mine shall not be taken into consideration in computing the period of any notice required to be given before the termination of his employment.]

[(10) Where a person employed in a mine is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, he or his heirs or his nominee, as the case may be, shall be entitled to wages in lieu of leave due to him calculated at the rate specified in sub-section (1), if,-

(a) in the case of a person employed below ground in a mine, he has put in attendance for not less than one-half of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death; and

(b) in any other case, he has put in attendance for not less than two-thirds of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death, and payment of such wages shall be made by the owner, agent or manager of the mine at the rate specified in section 53, where the person is discharged or dismissed from service or quits employment or is superannuated, before the expiry of the second working day after such discharge, dismissal, quitting of employment or superannuation, as the case may be, and where the person employed dies while in service, within a period of two months of his death.]

[*Explanation* .-For the purposes of][sub-sections (1), (3) and (10)][any fraction of leave of half a day or more shall be treated as one full day and fraction of less than half a day shall be omitted.

53. Wages during leave period .-For the leave allowed to a person employed in a mine under section 52, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he was employed during the month immediately preceding his leave, exclusive of any overtime wages and bonus but inclusive of any dearness allowance and compensation in cash including such compensation, if any, accruing through the free issue of foodgrains and other articles as persons employed in the mine may, for the time being, be entitled to:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average of the total full time earnings of all persons similarly employed for the same month.

54. Payment in advance in certain cases .-Any person employed in a mine who has been allowed leave for not less than four days, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

55. Mode of recovery of unpaid wages .-Any sum required to be paid by the owner, agent or manager of a mine under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (4 of 1936).

56. Power to exempt mines .-Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.

]

CHAPTER VIII

Regulations, Rules And Bye-Laws

57. Power of Central Government to make regulations .-The Central Government may, by notification in the Official Gazette, make [regulations] consistent with this Act for all or any of the following purposes, namely:-

(a) for prescribing the qualifications required 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, and for prescribing the [qualifications (including age) of agents and managers] of mines and of persons acting under them;

(d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

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

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

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

[(h) for providing for inquiries to be made under this Act, including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Act and for the suspension or cancellation of any such certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects;]

(i) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (4 of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;

[(j) for prohibiting, restricting or regulating the employment of][* * *][women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such persons and for limiting the weight of any single load that may be carried by any such person;]

(k) for providing for the safety of the persons employed in a mine, their means of entrance thereto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(l) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;

[(m) for providing for the safety of the roads and working places in mines, including the sitting, maintenance and extraction or reduction of pillars or blocks of minerals and the maintenance of sufficient barriers between mine and mine;

(n) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings in the vicinity of the sea or any lake or river or any other body of surface water, whether natural or artificial, or of any public road or building, and for requiring due precaution to be taken against the irruption or inrush of water or other liquid matter into, outbreak of fire in or premature collapse of, any workings;]

(o) for providing for the ventilation of mines and the action to be taken in respect of dust, fire and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

[(p) for regulating, subject to the provisions of the Indian Electricity Act, 1910 (9 of 1910), and of any rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines and of all other machinery and plant therein;]

(q) [for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads] and for restricting the use of certain classes of locomotives underground;

(r) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;

(s) for providing against explosions or ignitions [of inflammable gas or dust] 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 the premature collapse of [workings] or to result in or to aggravate the collapse of [workings] or irruptions of water or ignitions in mines;

(t) [for prescribing under clause (g) of sub-section (1) of section 23, the types of accidents and 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;

[(u)][for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for prescribing the plans and sections and field

notes connected therewith to be kept by them][and the manner and places in which such plans, sections and field notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector; and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue;]

(v) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines [for dealing effectively with the situation];

(w) 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 16;

(x) 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 [forty-five metres] of any railway subject to the provisions of the [Indian Railways Act, 1890 (9 of 1890)] or of any [public roads or other works, as the case may be, which are maintained by the Government or any local authority];

(y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the [Indian Railways Act, 1890 (9 of 1890)];

[(yy) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner in the same manner as an arrear of land revenue;]

(z) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public; and

(zz) any other matter which has to be or may be prescribed.

58. Power of Central Government to make rules .-The Central Government may, by notification in the Official Gazette, make [rules] consistent with this Act for all or any of the following purposes, namely:-

[(a) for providing the term of office and other conditions of service of, and the manner of filling vacancies among, the members of a Committee and for regulating the procedure to be followed by a Committee for transacting its business;]

(b) for prescribing the form of the register referred to in sub-section (3) of section 23;

(c) for providing for the appointment of Courts of Inquiry under section 24, 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 [including any other expenses connected with the inquiry][in the same manner as an arrear of land revenue] from the manager, owner or agent of the mine concerned;

[(cc) for providing for inspection of mines to be carried out on behalf of the person employed therein by a technical expert (not less than an overman in status), the facilities therefor, the frequency at which and the manner in which such inspections are to be carried out and the manner in which reports of such inspections are to be made;]

(d) for requiring the maintenance in mines wherein any women are employed or were employed on any day of the preceding twelve months of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women employed in the mine, the number and standards of such rooms, and the nature and extent of the amenities to be provided and the supervision to be exercised therein;

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

(f) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking water [* * *];

[(ff) for providing for the supply and maintenance of medical appliances and comforts and for prescribing the contents and number of first-aid boxes and cupboards, the training in first-aid work, the size and equipment of first-aid rooms and staff in charge thereof and the arrangements for conveyance of injured persons to hospitals or dispensaries;

(fff) for requiring the imparting of practical instruction to, or the training of, persons employed or to be employed in mines otherwise than in a position of supervision or management and for prescribing schemes for such instruction and training;]

(g) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;

(h) for prescribing the forms of notices required under section 36, and for requiring such notices to be posted also in specified languages;

(i) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(j) 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;

[* * *]

[(kk) for requiring person employed or seeking employment at mines to submit themselves for medical examination and for prohibiting on medical grounds the employment of any person at a mine either absolutely or in a particular capacity or in particular work;]

[(l) for prescribing the form of registers required by section 48 and the maintenance and form of registers for the purposes of Chapter VII;]

(m) for prescribing [abstracts] of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;

(n) 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;

(o) for requiring the provision and maintenance in mines, wherein more than [* * *] fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;

(p) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;

(q) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of welfare officers as may be specified and for prescribing the qualifications and the terms and conditions of, and the duties to be performed by, such welfare officers;

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

(s) for providing for the management of rescue stations;

(sa) for providing for the standards of physical fitness and other qualifications of the persons constituting rescue brigades;

(sb) prescribing the places of residence of the persons constituting rescue brigades;]

(t) for prescribing the position, equipment, control, maintenance and functions of [* * *] rescue stations;

[(u) for providing for the levy and collection of a duty of excise (at a rate not exceeding twenty-five paise per tonne) on coke and coal produced in and despatched from mines specified under clause (r), the creation of a rescue stations fund for such mines, the crediting to such fund of such sums of money as the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from out of the proceeds of such cess credited to the Consolidated Fund of India, the manner in which the money from such fund shall be utilised and the administration of such fund;]

(v) for providing for the formation, training, composition and duties of rescue brigades [* * *]; and generally for the conduct of rescue work in mines; [* * *]

[(vv) for providing for the constitution of safety Committees for specified mine or groups of specified mines or for all mines in a specified area for promoting safety and for laying down the composition, manner of formation and functions of such safety Committees; and]

(w) 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.

59. Prior publication of regulations and rules .-(1) The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

[* * *]

[(4) No regulation or rule shall be made unless the draft thereof has been referred to the Committee constituted under sub-section (1) of section 12 and unless that Committee has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.]

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

(6) The provisions of sub-sections (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (d) or clause (e) of section 58 are made.

[* * *]

60. Power to make regulations without previous publication .-

Notwithstanding anything contained in sub-sections (1), (2) and [(4)] of section 59, regulations under [* * *] section 57 may be made without previous publication and without [*] reference to [the Committee constituted under sub-section (1) of section 12], if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making

such [regulations] to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made [shall be sent to the said Committee for information and] shall not remain in force for more than [one year] from the making thereof.

61. Bye-laws .-(1) The owner, agent or manager of 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, [governing the use of any particular machinery or the adoption of a particular method of working 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 person 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 [Committee constituted under sub-section (1) of section 12].

(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 [Committee constituted under sub-section (1) of section 12], a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

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

(c) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the

persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

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

(i) the specific grounds of objections, and

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

(e) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages 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 Central Government may, by order in writing rescind, in whole or in part, any bye-laws so made, and thereupon such bye-laws shall cease to have effect accordingly.

[61-A. Laying of regulations, rules and bye-laws before Parliament .- Every regulation made under section 57, every rule made under section 58 and every bye-law made under section 61 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, rule or bye-law or both Houses agree that the regulation, rule or bye-law should not be made, the regulation, rule or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation, rule or bye-law, as the case may be.]

62. Posting up of abstracts from Act, regulations, etc .-There shall be kept posted up at or near every mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER IX

Penalties And Procedure

63. Obstruction .-(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine, which may extend to five hundred 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.

64. Falsification of records, etc .-Whoever-

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

(b) knowingly uses as true any such counterfeit 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, section, register or record, the maintenance of which is required by or under this Act or produces before any authority such false plan section register or record, knowing the same to be false, 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 [one thousand rupees], or with both.

65. Use of false certificate of fitness .-Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under [section 43] a certificate granted to another person under that section, or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to [two hundred] rupees, or with both.

66. Omission to furnish plans, etc .-Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, [section], 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 [one thousand] rupees.

67. Contravention of provisions regarding employment of labour .-Whoever, save as permitted by section 38, 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 imprisonment for a term which may extend to three months, or with fine which may extend to [one thousand] rupees, or with both [* * *].

[68. Penalty for employment of persons below eighteen years of age .-If a person below eighteen years of age is employed in a mine in contravention of section 40, the owner, agent or manager of such mine shall be punishable with fine which may extend to five hundred rupees.]

69. Failure to appoint manager .-Whoever, in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to [two thousand and five hundred] rupees, or with both [* * *].

70. Notice of accidents .-(1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period specified 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 in contravention of a direction made by the Central Government under sub-section (3) of section 23, fails to record in the prescribed register or to give notice of any accidental occurrence 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.

71. Owner, etc., to report to Chief Inspector in certain cases .-Where the owner, agent or manager of a mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the Court report the result thereof to the Chief Inspector.

72. Obligation of persons employed in a mine .-No person employed in a mine shall-

(a) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein;

(b) wilfully and without reasonable cause do anything likely to endanger himself or others;

(c) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

[72-A. Special provision for contravention of certain regulations .- Whoever contravenes any provision of any regulation or of any bye-law or of any order made thereunder, relating to matters specified in clauses (d), (i), (m), (n), (o), (p), (r), (s) and (u) of section 57 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.]

72-B. Special provision for contravention of orders under section 22.-Whoever continues to work in a mine in contravention of any order issued under sub-section (1-A), sub-section (2) or sub-section (3) of section 22 [or under sub-section (2) of section 22-A] shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five thousand rupees:

[Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the Court, such fine, shall not be less than two thousand rupees.]

72-C. Special provision for contravention of law with dangerous results .-(1) Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder other than an order made under sub-section (1-A) or sub-section (2) or sub-section (3) of section 22 [or under sub-section (2) of section 22-A], shall be punishable-

(a) if such contravention results in loss of life, with imprisonment which may extend to two years, or with fine which may extend to five thousand rupees, or with both; or

(b) if such contravention results in serious bodily injury, with imprisonment which may extend to one year, or with fine which may extend to three thousand rupees, or with both; or

(c) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

[Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the Court, such fine, in the case of a contravention referred to in clause (a), shall not be less than three thousand rupees.]

(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 this 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.

[73. General provision for disobedience of orders .-Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

74. Enhanced penalty after previous conviction .-If any person who has been convicted for an offence punishable under any of the foregoing provisions (other than sections 72-B and 72-C) is again convicted for an offence committed within two years of the previous conviction and involving a contravention of the same provision, he shall be punishable of each subsequent conviction with double the punishment to which he would have been liable for the first contravention of such provision.]

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

[Provided that the Chief Inspector or the District Magistrate or the Inspector as so authorised shall, before instituting such prosecution, satisfy himself that the owner, agent or manager had failed to exercise all due diligence to prevent the commission of such offence:]

[Provided further that] in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

[76. Determination of owner in certain cases .-Where the owner of a mine is a firm or other association of individuals, all, or any of the partners or members thereof or where the owner of a mine is a company, all or any of the directors thereof or where the owner of a mine is a Government or any local authority, all or any of the officers or persons authorised by such Government or local authority, as the case may be, to manage the affairs of the mine, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:]

[Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,-

(a) in the case of a firm, any of its partners or managers;

(b) in the case of an association, any of its members or managers;

(c) in the case of a company, any of its directors or managers, who is resident, in each case in any place to which this Act extends and who is in each case either in fact in charge of the management of, or holds the largest number of shares in such firm, association or company, to assume the responsibility of the owner of the mine for the purposes of this Act, such partner, member, director or manager, as the case may be, shall, so long as he continues to so reside and be in charge or hold the largest number of shares as aforesaid, be deemed to be the owner of the mine for the purposes of this Act unless a notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or manager, as the case may be, is received by the Chief Inspector.

Explanation .-Where a firm, association or company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this proviso in relation to different establishments or branches or units and the person so nominated shall, with respect only to the establishment, branch or unit in relation to which he has been nominated, be deemed to be the owner of the mine.]

77. Exemption of owner, agent or manager from liability in certain cases .-(1) Where the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf [and on his furnishing the known address of the actual offender] and on giving to the prosecutor not less than three clear days notice in writing of his intention so to do, to have that other person brought before the Court on the date appointed for the hearing of the case; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the Court-

(a) that he has used due diligence to enforce the execution of the relevant provisions of this Act, and

(b) that the other person committed the offence in question without his knowledge, consent or connivance, the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted:

Provided that-

(a) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;

(b) if in spite of due diligence the person alleged as the actual offender cannot be brought before the Court on the date appointed for the hearing of the case, the Court shall adjourn the hearing thereof from time to time so, however, that the total period of such adjournments does not exceed three months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the Court, the Court shall proceed to hear the case against the owner, agent or manager, as the case may be.

78. Power of Court to make orders .-(1) Where the owner, agent or manager of mine is convicted of an offence punishable under this Act, the Court may, in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the Court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during, the period or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

79. Limitation of prosecutions .-No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made-

(i) within six months of the date on which the offence is alleged to have been committed, or

(ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or

[(ii-a) in any case in which the accused is or was a public servant and previous sanction of the Central Government or of the State Government or of any other authority is necessary for taking cognizance of the offence under any law for the time being in force, within three months of the date on which such sanction is received by the Chief Inspector, or]

(iii) in any case where a Court of inquiry has been appointed by the Central Government under section 24, within [one year] after the date of the publication of the report referred to in sub-section (4) of that section, whichever is later.

[*Explanation* .-For the purposes of this section,-

(a) in the case of continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time has been extended under this Act, the period of limitation shall be computed from the expiry of the extended period.]

80. Cognizance of offences .-No Court inferior to that of a [Metropolitan Magistrate or Judicial 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.

80-A. Special provision regarding fine .-[*Omitted by the Mines (Amendment) Act , 1983 (42 of 1983), section 44 (w.e.f.31-5-1984).*]

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

(2) On receipt of a report under sub-section (1), the Central Government may refer the case to [* * *] a Committee, or may direct the Court to proceed with the trial.

CHAPTER X

Miscellaneous

82. Decision of question whether a mine is under this Act .-If any question arises as to whether any excavation or working [or premises in or adjacent to and belonging to a mine, on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on] is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

83. Power to exempt from operation of Act, regulations, etc .- [(1)] The Central Government may, by notification in the Official 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 of the provisions of this Act or the regulations, rules or bye-laws]:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of [sections 40 and 45] unless it is also exempted from the operation of all the other provisions of this Act.

[(2) The Central Government may, by general or special order and subject to such restrictions as it may think fit to impose, authorise the Chief Inspector or any other authority to exempt, subject to any specified

conditions, any mine or part thereof from the operation of any of the provisions of the] [regulations, rules or bye-laws] [if the Chief Inspector or such authority is of opinion that the conditions in any mine or part thereof are such as to render compliance with such provision unnecessary or impracticable.]

84. Power to alter or rescind orders .- [(1)] The Central Government may reverse or modify any order passed under this Act.

[(2) The Chief Inspector may, for reasons to be recorded in writing, reverse or modify any order passed by him under this Act or under any regulation, rule or bye-law.

(3) No order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation.]

85. Application of Act to mines belonging to Government .-This Act shall [also] apply to mine belonging to the Government.

[85-A. Persons required to give notice, etc., legally bound to do so .- Every person required to give any notice or to furnish any information to any authority under this Act shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).]

[85-B. Signing of returns, notices, etc .-All returns and notices required to be furnished or given or communications sent by or on behalf of the owner of a mine in connection with the provisions of this Act or any regulation, rule, bye-law or any order made thereunder shall be signed by the owner, agent or manager of the mine or by any person to whom power in this behalf has been delegated by the owner by a power of attorney.

85-C. No fee or charge to be realised for facilities and conveniences .-No fee or charge shall be realised from any person employed in a mine in respect of any protective arrangements or facilities to be provided, or any equipment or appliances to be supplied under the provisions of this Act.]

86. Application of certain provisions of Act 63 of 1948 to mines .-The Central Government may, by notification in the Official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (63 of 1948) shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

87. Protection of action taken in good faith .-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.

88. Repeal of Act 4 of 1923 .-[*Repealed by the Repealing and Amending Act, 1957 (36 of 1957), section 2 and Schedule I.*]