
MINES INSPECTION AMENDMENT ACT 1989

No. 24 of 1989

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MINES INSPECTION AMENDMENT ACT 1989

No. 24 of 1989

AN ACT to amend the Mines Inspection Act 1968.

[Royal Assent 18 April 1989]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Mines Inspection Amendment Act 1989*. Short title.

2—(1) Except as provided in subsection (2), this Act shall commence on the day on which it receives the Royal assent. Commencement.

(2) Sections 4 (2), 5 (2), and 13 shall commence on such day or days as may respectively be fixed by proclamation.

3—In this Act, the *Mines Inspection Act 1968** is referred to as the Principal Act. Principal Act.

4—(1) Section 3 of the Principal Act is amended by inserting after the definition of “Record Book” in subsection (1) the following definition:— Amendment of section 3 of Principal Act (Interpretation).

* No. 17 of 1968. Amended by No. 62 of 1971, No. 4 of 1973, No. 7 of 1981, No. 10 of 1982, No. 29 of 1984, and No. 87 of 1986.

“the regulations” means regulations in force under this Act;

(2) Section 3 of the Principal Act is amended by omitting “*Inspection of Machinery Act 1960*” from the definition of “machinery” and substituting “*Industrial Safety, Health, and Welfare Act 1977*”.

Amendment, and repeal, of section 4A of Principal Act (Exclusion of certain Acts).

5—(1) Section 4A of the Principal Act is amended by omitting “and the *Factories, Shops, and Offices Act 1965* do” and substituting “does”.

(2) Section 4A of the Principal Act is repealed.

Insertion in Principal Act of new section 4B.

6—After Section 4A of the Principal Act, the following section is inserted:—

Act binds Crown.

4B—This Act binds the Crown not only in right of Tasmania but also, so far as the legislative power of Parliament permits, binds the Crown in all its other capacities.

Amendment of section 7 of Principal Act (General duties, &c., of managers of mines, &c.).

7—Section 7 of the Principal Act is amended by inserting after subsection (1) the following subsection:—

(1A) Without limiting the generality of subsection (1), the duties of the manager of a mine include—

(a) the provision and maintenance of plant and systems of work that are safe and without undue risks to health;

(b) the making of arrangements to ensure safety, and the absence of undue risks to health, in connection with the use, handling, storage, or transport of plant and substances;

(c) the provision of such information, instruction, training, and supervision as may be necessary to ensure the safety and health at work of employees;

(d) so far as is reasonably practicable in relation to any place of work under his control—

(i) the maintenance of that place in a condition that is safe and without undue risk to health; and

(ii) the provision and maintenance of means of access to, and egress from, that place that are safe and without undue risk to health; and

- (e) the provision and maintenance of a working environment for employees that is—
- (i) safe and without undue risk to health; and
 - (ii) adequate as regards facilities for their welfare at work.

8—Section 8 of the Principal Act is amended by omitting from subsection (4) “one hundred dollars with a further daily penalty of fifty dollars.” and substituting “a fine not exceeding 5 penalty units with a further daily penalty of a fine not exceeding 2.5 penalty units.”.

Amendment of section 8 of Principal Act (Prohibition on working mine without manager).

9—Section 15 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

Amendment of section 15 of Principal Act (General duties of employees).

(2) When a person employed in or about a mine becomes aware of any matter that appears to him likely to produce danger—

- (a) he shall—
 - (i) if it is within his normal duties to rectify the matter, do so and notify his immediate supervisor or the manager of the action that he has taken; or
 - (ii) if it is outside his normal duties to rectify the matter, notify his immediate supervisor or the manager of the matter; and
- (b) he shall, in any event, take reasonable precautions to prevent other persons from being exposed to the danger.

10—Section 16 of the Principal Act is amended as follows:—

Amendment of section 16 of Principal Act (Withdrawal of employees in case of danger).

- (a) by omitting from paragraph (a) of subsection (1) “and”;
- (b) by inserting after paragraph (a) of subsection (1) the following paragraph:—
 - (aa) notify an inspector as soon as practicable by the quickest means available; and
- (c) by omitting from subsection (3) “if the danger arises from inflammable gas, shall be so inspected with a locked safety lamp.” and substituting “if the danger arises from flammable gas, shall be so inspected with a locked flame safety lamp or other monitoring device of a kind approved by the Chief Inspector.”.

Amendment of section 22 of Principal Act (Limitation on employment in mines by reason of age).

11—Section 22 of the Principal Act is amended by omitting subsection (2).

Amendment of section 25 of Principal Act (Sunday work).

12—Section 25 of the Principal Act is amended by omitting “*Sunday Observance Act 1908*” and substituting “*Sunday Observance Act 1968*”.

Repeal of section 26 of Principal Act (Exclusion of *Inspection of Machinery Act 1960* in relation to mine machinery).

13—Section 26 of the Principal Act is repealed.

Substitution of section 28 of Principal Act.

14—Section 28 of the Principal Act is repealed and the following section is substituted:—

Cranes.

28—(1) Subject to subsection (2), a person shall not drive—

(a) a crane that is—

(i) equipped with a hoist rope; and

(ii) capable of transporting a load horizontally at a greater speed than 1.0 metre per second or vertically at a greater speed than 0.5 metre per second; or

(b) a crane of any kind while it is carrying—

(i) a substance the temperature of which exceeds 100 degrees Celsius; or

(ii) an unconfined corrosive,

unless he holds a certificate of competency issued under the regulations that authorizes him to drive that crane.

(2) Where an inspector is satisfied that an appropriate degree of safety may be achieved by alternative means, he may, by notice in writing given to the manager of a mine, exempt the operation of a crane, in whole or in part, from the application of subsection (1) on such conditions as may be specified in the notice.

(3) For the purpose of enabling a person to be trained, or gain experience, in the operation of a crane of a kind referred to in subsection (2) (a), an inspector may issue a permit authorizing that person to operate such a crane—

(a) under the personal supervision of another person who holds a certificate of competency issued under the regulations authorizing that other person to operate such a crane; and

- (b) subject to such other terms and conditions as may be specified in the permit.

15—Section 31 of the Principal Act is amended by omitting from subsection (5) “one thousand dollars.” and substituting “a fine not exceeding 100 penalty units.”

Amendment of section 31 of Principal Act (Plans and sections of mines).

16—Section 34 of the Principal Act is amended as follows:—

Amendment of section 34 of Principal Act (Periodic returns of production, &c.).

- (a) by omitting subsection (1) and substituting the following subsection:—

(1) Subject to subsection (5), the manager of a mine shall, within 28 days after the end of each return period, cause a correct return to be sent to the Director specifying—

- (a) the nature, quantity, and value of mining products purchased, produced, treated, or sold during that period;
- (b) the average number of persons employed at that mine during that period; and
- (c) such other statistical information as may be required by the Director.

- (b) by omitting from subsection (2) “an inspector” and “quarter” and substituting “the Director” and “return period”, respectively;

- (c) by omitting from subsection (3) “an inspector” (twice occurring) and substituting “the Director”;

- (d) by omitting subsection (4) and substituting the following subsections:—

(4) In this section, “return period” means, in relation to an obligation imposed on a person—

- (a) such period as is specified by the Director, by notice in writing given to that person, in relation to that obligation; or
- (b) where no period is so specified, a period of 3 months ending on the last day of March, June, September, or December.

(5) The Director may, by notice in writing given to a person, exempt that person from compliance with an obligation referred to in subsection (1) or (2).

(6) The penalty for an offence under this section is a fine not exceeding 20 penalty units.

Amendment of section 36 of Principal Act (Regulation of construction of dams and reservoirs).

17—Section 36 of the Principal Act is amended by omitting from subsection (6) “one thousand dollars.” and substituting “a fine not exceeding 100 penalty units.”.

Amendment of section 37 of Principal Act (Maintenance of dams and reservoirs).

18—Section 37 of the Principal Act is amended by omitting from subsection (7) “one thousand dollars.” and substituting “a fine not exceeding 100 penalty units.”.

Amendment of section 46 of Principal Act (Inspection of mines by certain officers).

19—Section 46 of the Principal Act is amended by inserting “and may record the results of inspections in the Record Book” after “purposes”.

Amendment of section 47 of Principal Act (Duty of secrecy).

20—Section 47 of the Principal Act is amended as follows:—

(a) by omitting “Except” and substituting “(1) Except”;

(b) by adding at the end the following subsection:—

(2) Subsection (1) does not prevent the Chief Inspector from—

(a) providing a brief factual report of an accident in which an employee was injured to that employee or to his legal representative; or

(b) making public a brief account of an accident, with mine and employee names deleted and with recommendations for preventing its recurrence, in the interests of safety in mines.

Amendment of section 48 of Principal Act (Certain offences in mines).

21—Section 48 of the Principal Act is amended by adding after subsection (6) the following subsection:—

(7) A person who fails to comply with a reasonable and lawful direction given by a manager, an inspector, or another person exercising authority conferred by this Act or the regulations to give directions is guilty of an offence.

Amendment of section 50 of Principal Act (Copies of regulations).

22—Section 50 of the Principal Act is amended by inserting “this Act and” after “legible copy of”.

Amendment of section 51 of Principal Act (Liability for contravention of Act).

23—Section 51 of the Principal Act is amended as follows:—

(a) by omitting subsection (3) and substituting the following subsection:—

(3) In any proceedings taken against a person by reason of a contravention of this Act by a person under his authority it shall be a sufficient defence for the person in authority to show that he used all means reasonably available to him to secure compliance with this Act and that he reported the contravention to an inspector as soon as he became aware of it.

(b) by omitting subsection (5).

24—Section 52 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 52 of Principal Act.

52—A person who is guilty of an offence under this Act for which no specific penalty is otherwise provided is liable to a fine not exceeding 100 penalty units for each offence with a further daily penalty of a fine not exceeding 5 penalty units for each day the offence continues after the giving by an inspector of a direction to cease the commission of the offence.

Penalties for offences.

25—Section 54 of the Principal Act is amended by omitting “by a police magistrate sitting alone” and substituting “summarily by a magistrate”.

Amendment of section 54 of Principal Act (Proceedings to be before magistrate).

26—Section 57 of the Principal Act is amended as follows:—

Amendment of section 57 of Principal Act (Regulations).

(a) by omitting from subsection (6) “one hundred dollars,” and substituting “a fine of 100 penalty units”;

(b) by inserting after “similar body” in subsection (7) “, either as in force on a particular date or as amended and in force from time to time and with or without modifications”;

(c) by adding after subsection (7) the following subsection:—

(8) A regulation made under this section may authorize any matter or thing to be from time to time determined, applied, or regulated by the Director, the Chief Inspector, or an inspector other than the Chief Inspector.

27—After section 57 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 57A.

Exemption from
requirements of
regulations.

57A—(1) Where the Chief Inspector is of the opinion that compliance with any provision of the regulations is not reasonably practicable under the circumstances prevailing in a particular mine or part of a mine and that an equal degree of safety may be achieved by alternative means, he may grant a certificate exempting that mine or part of a mine from the application of that provision on such conditions as are specified in the certificate.

(2) As soon as practicable after the granting of a certificate of exemption, the manager of the mine to which it relates shall cause—

- (a) the exemption to be recorded in the Record Book;
and
- (b) a copy of the certificate to be displayed in a conspicuous place at the mine.