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Mines, Works and Machinery Act, 1960

Act 61 of 1960

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Mines, Works and Machinery Act, 1960

Act 61 of 1960

Commenced on 6 January 1961

[This is the version of this document at 1 December 1998.]

An Act to consolidate the law relating to the operating of mines, works and machinery.

1. Short title

This Act may be cited as the Mines, Works and Machinery Act, 1960.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Commissioner**” means the Commissioner of Mines appointed under the Mining Act, [No. 5 of 1958](#);

“**Department**” means the Department of Geological Survey and Mines;

“**inspector**” includes a senior inspector and an assistant inspector and any person delegated by the Commissioner to act as a senior inspector, an inspector or an assistant inspector;

“**inspector of machinery**” means an inspector appointed as such under [section 3](#);

“**inspector of mines**” means an inspector appointed as such under section 8 of the Mining Act, [No. 5 of 1958](#);

“**machinery**” means any engine, boiler or appliance or combination of appliances which is used or intended to be used for generating, developing, receiving, storing, converting, transforming or transmitting any form of power or energy, or for conveying persons, material or mineral;

“**mine**” means and includes all excavations for the purpose of searching for or winning minerals, as well as the working of mineral deposits, whether abandoned or actually being worked on the surface, from the surface downwards and underground, together with all buildings, premises, erections, and appliances belonging or appertaining thereto above and below ground for the purpose of prospecting for or winning metals, minerals, or precious stones, by boring, excavating, dredging, or hydraulicing;

“**mineral**” means and includes all substances (including mineral oils) which can be obtained from the earth by mining, digging, dredging, hydraulicing, quarry-ing, or other operations for purposes of profit;

“**Mining Act**” means the Swaziland Mining Act, [No. 5 of 1958](#);

“**Minister**” means the Minister responsible for Mines;

“**owner**” or “**holder**” in relation to a mine, works or machinery includes the lessee of the mine, works or machinery or any part thereof, and a tributor for the working of the mine or any part thereof, but does not include any person who owns only rights to the surface of the land on which a mine, works or machinery is situate;

“**Sundays**”, “**Christmas Day**” and “**Good Friday**” means the period from twelve o’clock midnight on the day previous to any such day to twelve o’clock midnight on any such day;

“**works**” means any place which is not a mine or part of a mine where any machinery is erected or used, and includes all dams, reservoirs and other appliances for conserving water, and any place where building or excavation work is carried on.

3. Appointment of officers

The Minister may designate public officers to be inspectors of machinery for carrying into effect the provisions of this Act.

4. Officers supervising mines, works and machinery

The supervision of all mines and works and machinery shall be exercised by the commissioner and, subject to the directions of the commissioner, by inspectors of mines and inspectors of machinery.

5. Regulations

The Minister may make regulations in connection with—

- (a) the protection and preservation of the surface of mines or works and of buildings, roads, railways and other structures and enclosures on or above the surface of the ground and the conditions under which any such buildings, roads, railways, structures and enclosures may be undermined;
 - (b) the making and keeping of mine plans and the depositing of copies with the department;
 - (c) the making of statistical and other reports relating to mines, works and machinery;
 - (d) the duties and responsibility of owners, managers, overseers, and other persons engaged in or about mines, works and machinery;
 - (e) appeals from any decision of or instruction given by the commissioner, an inspector of mines, an inspector of machinery, or other any officer;
 - (f) the manner of holding enquiries at or in connection with any mine or works, the procedure to be followed at any such inquiry and the mode of securing the attendance of witnesses thereat;
 - (g) the provision of ambulances and medical aid in case of accident;
 - (h) the conditions upon which machinery may be erected or used;
 - (j) the fees payable for any inspection under this Act;
- [Please note: numbering as in original.]*
- (k) prohibition or restrictions in relation to making or use of roads or railways or other travelling ways over, or the erection or use of buildings or other objects on, areas which have been undermined;
 - (l) the safety and health of persons employed in or about mines and works, and generally of persons, property and public traffic;
 - (m) the grant, cancellation and suspension of certificates of competency to—
 - (i) mine managers,
 - (ii) mine overseers,
 - (iii) mine surveyors,
 - (iv) mechanical and electrical engineers,
 - (v) engine drivers, and
 - (vi) such other classes of persons employed in, at or about mines, works and machinery as the Minister may from time to time deem expedient should be in possession of certificates of competency;
 - (n) the fees to be payable by persons applying for any of the certificates mentioned in paragraph (m) or on their admission to an examination for any such certificate;

- (o) generally for ensuring the proper working and management of all mines, works and machinery and for the better carrying out of the objects and purposes of this Act; and
- (p) providing for the punishment by means of a fine not exceeding two hundred emalangeni or, in default of payment thereof, imprisonment not exceeding one year, of any person guilty of an offence against the regulations:

Provided that the regulations shall specify what punishment may be imposed for each offence thereby created.

6. Mine manager's power to make rules

- (1) The manager of a mine may make rules for the maintenance of order and discipline, and the prevention of accidents in any such mine.
- (2) Such rules may impose as penalties for breaches thereof fines not exceeding ten emalangeni:
Provided that the penalty which may be imposed for each breach shall be specified in such rules.
- (3) The rules when made shall be submitted to the commissioner for his consideration, and when approved by him, shall take effect after they have been posted up in a conspicuous place at the mine for fourteen clear days.
- (4) All such rules, when and so long as they are posted up and are legible, shall have the same force and effect as the regulations.

7. Sunday labour

No person shall perform any work, or cause or permit any work to be performed in or about any mine on Sundays, Christmas Day or Good Friday, other than—

- (a) attending to and working pumping or ventilating machinery for the supply of light heat or power, or any boiler belonging to any such machinery;
- (b) such repairs above or below the surface as cannot be delayed, without causing damage or danger to life, health or property; including labour in workshops necessary and incidental to any such repairs; and,
- (c) any continuous chemical, metallurgical or smelting process if a stoppage thereof during the whole of any such day would either prevent its immediate resumption on the next succeeding day or diminish the effectiveness of the process:

Provided that if any question arise as to the repairs which fall within paragraph (b) or the processes which fall within paragraph (c) of this section the opinion of the commissioner shall be conclusive; and,

Provided further that permission may, on application to a inspector of mines or machinery, be granted by the commissioner for carrying on temporarily any other necessary work, in addition to work described in this section on the days aforesaid in or about any mine.

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

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

- (2) The person to whom such permission has been granted shall—
 - (a) make good any damage arising from the making or use of such tunnel, shaft, incline or excavation; and
 - (b) hand over free of cost, at the surface of the mine to the person entitled thereto, all minerals extracted in such tunnel, shaft or incline, or, at the option of such last-mentioned person, pay over to him the value thereof as determined by the commissioner.
- (3) No person shall wilfully hinder or obstruct the person to whom such permission has been granted, in the making or use of such tunnel, shaft, incline or excavation.

9. Age, sex of employee

No person shall employ underground in any mine or on any work considered dangerous by an inspector of mines or machinery on account of occupational disease, any male apparently under the age of eighteen years or any female.

10. Hours for youths

- (1) No person apparently under the age of eighteen years shall work in or upon any mine longer than eight hours during any consecutive twenty-four hours or longer than forty-eight hours during any consecutive seven days, except for the purpose of performing the work described in [section 7\(b\)](#).
- (2) The period of work shall, for the purposes of this section, be exclusive of the time occupied in going to or from the working place.

11. Hours for underground labour

- (1) Subject to sub-section (2) no person employed to perform under-ground work in any mine shall work, and no person shall cause or permit any person so employed to work underground, for a longer period than eight hours during any consecutive period of twenty-four hours or forty-eight hours during any consecutive seven days exclusive of the time occupied in going to or from the working place.
- (2) Sub-section (1) shall not apply to the work—
 - (a) necessitated by accident or other emergency; or
 - (b) or services of any mine official or of any class of employee exempted by the commissioner for the reason that such work or service is performed or rendered for the purpose of securing safety or of transporting employees to or from their working places underground in the mine.

12. Enquiries by inspectors on death or injury

If an accident occurs at a mine or works causing or resulting in loss of life, or injury to any person involving incapacity to work for a period of fourteen days or more, an inspector of mines or machinery shall hold an enquiry into the cause of the accident, and where any other accident occurs at a mine or works, such inspector may hold such enquiry, in accordance with section 81 of the Mining Act, [No. 5 of 1958](#).

13. Other enquiries by inspectors

If an inspector of mines or machinery has reason to believe that any provision of this Act or the regulations thereunder or any rule made under [section 6](#) has been contravened he may hold an enquiry into any such contravention; and if in the opinion of the commissioner it is for any reason expedient that an enquiry be held into any occurrence at a mine or works he may depute an inspector of mines or machinery or any other public officer to hold an enquiry into such occurrence.

14. Infliction of summary penalties

- (1) An inspector of mines or an inspector of machinery may, if satisfied after suitable investigation, that any person has committed an offence against the regulations or against the rules made by a mine manager in terms of [section 6\(1\)](#), summarily demand payment of a fine not exceeding ten emalangeneni for such offence.
- (2) Any person from whom payment of a fine has been demanded under this section may elect to admit his liability and pay the fine or dispute his liability and await prosecution, and he shall be so informed at the time by the inspector.
- (3) The payment forthwith, or within such time as the inspector may specify, of any fine demanded under this section, shall operate as a bar to any further criminal proceedings against such person for such offence.
- (4) If such person does not admit liability or fails to pay the fine demanded forthwith or within the time specified, as the case may be, such summary demand shall not in any way relieve him of any liability he may have incurred or be a bar to his conviction and punishment by a competent court in respect of such offence.
- (5) The inspector shall give a receipt to any person making a payment in accordance with subsection (2) or (3) of this section and the receipt shall be in such form as may be approved by the Minister.

15. Power to enter upon and inspect mines, works, etc.

Any inspector of mines, Government medical officer or inspector of machinery may enter upon any mine or works and inspect or examine it or any part thereof or any machinery thereon at any hour of the day or night, if he does not impede or obstruct the working of the mine or the carrying on of the works.

16. Dangerous or defective state of things – notice to remedy by inspectors

If any inspector of mines or machinery or any Government medical officer finds at any mine or works that anything or any practice in any way connected therewith is dangerous or defective or that the absence of any thing or practice is calculated to cause bodily injury to or be injurious to the health of any person and no provision exists in any law, regulation or rule requiring any such thing to be done or not to be done, or requiring any such practice to be observed or forbidding any such practice, he shall give notice in writing to the manager of the mine or works stating the particular thing, matter or practice which he requires to be done or not to be done, or observed or discontinued, and may give such instructions relative thereto as he may deem expedient:

Provided that an appeal shall lie to the commissioner against any decision or instruction given under this section by any such inspector or officer.

17. Penalty for obstruction of officials of department

Any person who wilfully obstructs or hinders any officer of the department in the discharge of his duty, or disobeys a lawful order given by any such officer, or refuses or neglects to furnish any such officer with the means and assistance necessary for making an entry, inspection, examination or inquiry under this Act or any regulation or to attend, when required, any such inspection or examination, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeneni or, in default of payment thereof, to imprisonment not exceeding six months.

18. Penalties

Any person who—

- (a) performs or causes or permits the performance of any work in contravention of sections [7](#), [9](#), [10](#) or [11](#); or

- (b) fails to comply with the terms of any notice or instructions given by an inspector or officer in terms of [section 16](#)—

shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred emalangeni or, in default of payment thereof, to imprisonment not exceeding six months.

19. Endangering safety or causing serious bodily injury or death

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

- (a) the safety of any other person is endangered, or likely to be endangered; or
(b) serious bodily injury is caused to any other person; or
(c) the death of any other person is caused,

he shall be guilty of an offence and liable on conviction, in the case of an offence referred to in paragraph (a), to a fine not exceeding four hundred emalangeni or, in default of payment thereof, to imprisonment not exceeding twelve months; and in the case of an offence referred to in paragraph (b) to a fine not exceeding one thousand emalangeni or, in default of payment thereof, to imprisonment not exceeding two years; and in the case of an offence referred to in paragraph (c), to a fine not exceeding two thousand emalangeni or, in default of payment thereof, to imprisonment not exceeding four years, or to such imprisonment without the option of a fine:

Provided that nothing in this section shall be construed as exempting any person from prosecution for an offence under the common law or any other law, or as preventing the imposition on any such person, if convicted for such offence, of a more severe penalty.

20. Indemnity

No action or other legal proceedings whatsoever, civil or criminal shall be instituted in any court against the commissioner or other officer or any person acting under his authority for or on account of or in respect of anything done in good faith and done or purported to be done in the execution of his duty under this Act.