

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT,
MUZAFFARABAD.**

Dated the 26 July, 1977.

No. 788-90/1977. The following Act of the Assembly received the assent of the President on the 25th July, 1977, is hereby published for general information.

(ACT V of 1977)

AN ACT to provide the law relating to the regulation and inspection of mines

WHEREAS it is expedient to provide law for the regulation and inspection of mines in Azad Jammu and Kashmir in the manner hereinafter appearing;

It is hereby enacted as follows:-

**CHAPTER-I
PRELIMINARY**

1. **Short Title, Extent and Commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Mines Act, 1977.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Act, unless there is anything repugnant in the subject or context:-
 - (a) "agent" when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a Manager under this Act;
 - (b) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;
 - (c) "Child" means a person who has not completed his fifteenth year;
 - (d) "day" means a period of twenty four hours beginning at

midnight;

- (e) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the Manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kinds of work whatsoever incidental to, or connected with mining operations;
- (f) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (g) "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;
- (h) "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 all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mines:

Provided that it shall not include a mine of nuclear substances, an oil-field and a gas-field:

Provided further that it shall not include any part of such premises on which a manufacturing process is being carried on unless such, process is a process for coke making or the dressing of minerals;

- (i) "owner" when used in relation to a mine, means any person who is the immediate proprietor or lessee or co occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine or is merely the proprietor or the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor 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;

- (j) "prescribed" means prescribed by regulations, rules or bye-laws;
- (k) "qualified medical practitioner" means Deputy Director Health Services, District Health Officer, Civil Medical Officer or a person registered as practitioner with the Pakistan Medical Council;
- (l) "regulations", "Rules" and "bye-laws" means respectively regulations, rules and bye-laws made under this Act;
- (m) Where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay", and the period for which it works is called a "shift";
- (n) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to any part of the body or the permanent loss of, or injury to the sight or hearing or the fracture of any part of the body or the enforced absence of the injured person from work for a period exceeding twenty days; and
- (o) "week" means the period between midnight on Thursday night and midnight on the succeeding Thursday night.

CHAPTER - II INSPECTORS

3. **CHIEF INSPECTORS AND INSPECTORS.-** (1) The Government may, by Notification in the official Gazette, appoint a duly qualified person to be Chief Inspector of Mines for the whole of Azad Jammu and Kashmir, and duly qualified persons to be Inspectors of Mines subordinate to be Chief Inspector.
- (2) No person shall be appointed to be 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 Azad Jam am and Kashmir.
- (3) The District Magistrate may exercise the powers and perform he duties of an Inspector subject to the general or special orders of the 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 54.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Azad Penal Code.

4. **Functions of Inspectors:-** (1) 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 by this Act and shall, subject as aforesaid, 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.

(2) The Inspector shall give information to owners, agents and managers of mines, situated within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules, which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

5. **POWERS OF INSPECTORS OF MINES:-** The Chief Inspector and any Inspector may:-

- (a) make such examination and enquiry 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 there under 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;
- (c) examine into, and make enquiry 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 safety, health and welfare of the persons employed in the mine;
- (d) take, whether on the precincts of the mine or elsewhere, statement of any person which he may consider necessary for carrying out the purpose of this Act:

Provided that no person shall be required under this section to answer or give any evidence tending to criminate himself;

- (e) require the production of any books, registers or other documents, the keeping of which is prescribed, in order to see that they are in conformity with the provision of this Act and rules and regulations, framed there under and take into his custody, or make copies of, or extracts from, any such book, register or other document;
 - (f) After informing the Manager of a mine or his representative, take or remove, for the purpose of analysis, samples of materials and substances used or handled in the mine;
6. **Powers of special officer to enter, measure, etc.-** Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, 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 at any reasonable time by day or night but not so as unreasonably to impede or obstruct the working of the mines:
- Provided that no such notice need be given if, for reasons to be recorded, the Chief Inspector or Inspector is of opinion that there is an emergency.
7. **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 6 all reasonable facilities for making any entry, inspection, survey, measurement, examination or enquiry under this Act.
8. **Secrecy of information obtained:-** (1) All copies of, and extracts from, registers or other records pertaining 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 of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties there under shall be regarded as confidential and shall not be disclosed to any person other than a Magistrate or a commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923), or an official superior or the owner, agent or manager of the mine concerned, unless that Chief Inspector or the Inspector considers discloses necessary to ensure the safety of any person.

9. **Secrecy of source of complaint:-** The Chief Inspector or Inspector shall treat as absolutely confidential the source of any complaint bringing to his notice a defect or breach of any provision of this Act or any rules or regulations made there under and shall not give any intimation to the owner of the mine or his representative that a visit or inspection was made in consequence of the receipt of such a complaint.

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

(3) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Government.

CHAPTER - III MINING BOARDS AND COMMITTEES

10. **MINING BOARDS AND COMMITTEES:-** (1) The Government may constitute for any part of Azad Jammu and Kashmir or for any group or class of mines, a Mining Board consisting of:-

- (a) a person in the service of the Government, not being Chief Inspector or an Inspector, nominated by the Government to act as Chairman;
- (b) The Chief Inspector or an Inspector;
- (c) a person, not being the Chief Inspector or an Inspector nominated by the Government;
- (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;
- (e) two persons to represent the interest of minerals who shall be nominated in accordance with the following provisions:-
 - (i) if there are one or more registered trade unions having in the aggregate as members not less than one quarter of the miners the said persons shall

be nominated by such trade union or trade unions in such manner as may be prescribed;

- (ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than 1000 miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Government;
- (iii) if neither sub-clause (i) nor sub-clause (ii) is applicable the said persons shall be nominated by the Government.

Explanation:- In this clause 'miner' means a person employed otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

(2) The Chairman shall appoint a person to act as Secretary to the Board.

(3) The Government may give directions as to the payment of traveling expenses incurred by the Secretary or any member of any such mining Board in the performance of his duty as such Secretary or member.

11. **Committees:-** (1) Where under this Act any question relating to a mine is referred to a committee, the Committee shall consist of,-

- (a) a Chairman nominated by the Government or by such officer or authority as the Government may authorise in this behalf;
- (b) a person nominated by the Chairman and qualified by experience to dispose of the question referred to the committee; and
- (c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Government to represent the interests of the persons employed in the mine.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as Chairman or member of Committee appointed under this section.

- (3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1) the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.
- (4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Government.
- (5) On receiving such report the Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Government may proceed to review such decision and to pass such order in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.
- (6) The Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and to the payment of expenses of the inquiry including such remuneration.
12. **Powers of Mining Boards:-** (1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.
- (2) Every Mining Board, constituted, under section 10 and every Committee appointed under section 11 shall have the powers of Civil Court under the Code of Civil Procedure 1908 (V of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Azad Penal Code.
13. **RECOVERY OF EXPENSES:-** The Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a Committee appointed under section 11 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.

CHAPTER –IV
MINING OPERATION AND MANAGEMENT OF MINES

14. **Notice Before commencement of mining operations:-** (1) The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of proposed mining operations, not less than fifteen days before the commencement of such operations, give to the Chief Inspector and the District Magistrate of the district in which the mine is situated or the operations will commence notice in writing in such form and containing such particulars as may be prescribed.
- (2) If the proposed operations in respect of which notice is given under sub-section (1) are not commenced within sixty days from the date on which the notice was given the said notice shall be deemed to have expired and no operations shall commence except after a notice has been given in accordance with that sub-section.
15. **Managers:-** (1) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.
- (2) If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.
16. **Duties and Responsibilities of Owners, Agents and Managers:-** (1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye laws and of any orders made there under.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves —

- (a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and
- (b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER - V PROVISIONS AS TO HEALTHY AND SAFETY

- 17. **CONSERVANCY:-** There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.
- 18. **CANTEENS:-** At every mine wherein more than one hundred persons are ordinarily employed, a canteen of such standard as may be prescribed shall be provided for the use of persons employed therein.
- 19. **SHELTERS:-** There shall be provided and maintained for use of persons working above ground, in a mine, during intervals for rest, shelters of such standard and on such scale as may be prescribed.
- 20. **MEDICAL APPLIANCES:-** At every mine such supply of ambulances or stretchers, and of splints, bandages and ether medical requirements, as may be prescribed, shall be kept ready

at hand in a convenient place and in good and serviceable order.

21. **First-aid rooms:-** In every mine in respect of which the Government may, by notification in the official Gazette, declare this section to apply there shall be provided first-aid rooms of such size with such equipment and in charge of such medical and nursing staff as may be prescribed.

22. **Powers of chief inspector and inspector.-** (1) If in any respect which is not provided against by any express provision of this Act or of the regulations rules or bye-laws or of any orders made there under, it appears to the Chief Inspector or the Inspector that any mine or any part thereof or any matter, thing or practice in or connected with the mine, or with the control management or direction thereof, is dangerous to human life, health 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 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 as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, in any area to which the Government may by notification in the official Gazette declare that this sub-section applies, by order in writing addressed to the owner, agent or manager of a mines,-

Prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, 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 a fire or flooding; and the provisions of subsections (4), (5), (6) and (7) shall apply to an order made under this sub-section as they apply to an order made under sub-section (3).

(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, health or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a

statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) When an order has been made under sub-section (2) by an Inspector, the owner agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm modify or cancel the orders.

(5) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the Government and shall inform the owner, agent or manager of the mine that such report has been so made.

(6) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under, sub-section. (2), or sub-section (3), he may, within thirty days after the receipt of the notice containing the requisition of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Government, which shall refer the same to a Committee.

(7) Every requisition made under sub-section (1), or order (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the time 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 requisition under sub-section (1) pending its decision on the objection.

(8) Nothing in this section shall effect the power of a Magistrate under section 144 of the Code of-Criminal Procedure, 1898.

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 accidental explosion, ignition, spontaneous heating, outbreak of fire or eruption 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 over winding of cages or other means of conveyance in any shaft while persons or materials are being lowered, or raised, or
- (f) an electric shock or burn caused by contact with a conductor carrying more than 25 volts, or
- (g) any other accident that may be prescribed, the owner, agent or manager of the mine shall give notice of the occurrence to such authorities, in such form and within such time as may be prescribed.

(2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the Inspector shall, make, or, where the authority receiving the notice is one other than the Inspector, that authority shall cause the Inspector to make, an inquiry into the occurrence as early as possible on receipt of such notice or on information received otherwise.

(3) When an accident causing loss of life occurs, the place of the accident shall not be disturbed, or tampered with for three clear days from the date of such accident unless the Inspector has earlier inspected it or given intimation that it is not proposed to make an-inquiry:

Provided that the place of accident may be disturbed if is necessary for securing the safety of the mine or the persons employed therein, subject to the following conditions:-

- (a) the decision that it is necessary to disturb the place must be taken by the manager;
- (b) the disturbance must not prejudice subsequent investigation;
- (c) the workers' representative must have reasonable opportunity to inspect the place if he wishes;

- (d) an accurate plan must be made and copies thereof made available to the Inspector and the worker's representative; and
 - (e) every thing which is relevant to the accident must be preserved, as far as possible, in the condition in which it was at the time of the accident.
- (4) The Government may, by notification in the official Gazette direct that accidents other than those specified in sub-section (1) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours, shall be entered in a register in the prescribed form or shall be subject to the provision of sub-section (1).
- (5) A copy of the entries in the register referred to in sub-section (2) shall be sent by the owner, agent or manager of the mine, within fourteen days after the 30th day of June and the 30 day of December in each year, to the Chief Inspector.
24. **Notice of occupational diseases:-** (1) Where any person employed in a mine contracts or is believed to have contracted any disease notified by the Government in the official Gazette as the occupational disease peculiar to any mining operation, 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) The Government may, by order, appoint such qualified medical practitioners on such terms and conditions as it thinks fit to be certifying doctors for the purpose of this section within such local limits as it may specify in the order.
- (3) If the Chief Inspector or an Inspector has reason to believe that any person working in a mine has contracted a disease notified under sub-section (1), he may refer that person to the certifying doctor for his opinion.
- (4) If any qualified 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.

(5) Where the report under nub-section (4) is confirmed, to the satisfaction of the Chief Inspector by the certificate of a certifying doctor 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.

(6) The Chief Inspector or an Inspector, if so advised by the certifying doctor, may direct the owner, agent or manager of the mine to shift for any specified period a person who has contracted as occupational disease to such working place where there is look or no danger of aggravation of the disease.

25. **Power of Government to appoint court of inquiry in cases of accidents:-**

(1) When any accidental explosion, ignition, outbreak or fire or irruption of water or other accident has occurred in or about any mine, the Government , if it in of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or 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 (V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Azad Penal Code.

(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 Government stating the causes of the

accident and its circumstances, and adding any observations which lie or any of the assessors may think fit to make.

26. **Publication of reports:-** The Government may cause any report submitted by a Committee under section 11 and shall cause every report submitted by a court of inquiry under section 25 to be published at such time and in such manner as it may think fit.

**CHAPTER VI
HOURS AND LIMITATION OF EMPLOYMENT**

27. **Weekly day of rest:-** No person shall be allowed to work in a mine for more than six days in any one week.

28. **Hours of work above ground:-** (1) A person employed above ground in a mine shall not be allowed to work for more than forty-eight hours in any week or for more than eight hours in a day.

(2) The periods of work of any such person shall be so arranged that, along with his intervals for rest, they shall not in any day spread over more than ten and a half hours, and that he shall not work for more than five hours before he has had an interval for rest of at least half an hour.

(3) Persons belonging to the or more relays shall not be allowed to do work of the same kind above ground at the same moment:

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

29. **Hours of works below ground.-** (1) A person employed below ground in a mine shall not be allowed to work for more than eight hours in any day.

(2) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than eight hours in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than eight hours.

(3) No person employed in a mine shall be allowed to be in any part of the mine below ground except during the period of

work shown in respect of him in the register kept under sub-section (1) of section 41.

30. **Special provision for night relays:-** Where a worker works in a shift whose period of work extends over midnight of the ensuing day for him shall be deemed to be the period, of twenty four hours beginning at the end of the period of work fixed for the shift, and hours he has works after midnight shall be counted towards the previous day.
31. **Prohibition of employment of certain persons:-** No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.
32. **Notice regarding hours of works:-** (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 proposed of work for each relay. The notice shall also state the time of the commencement and of the end of the intervals for the rest fixed for persons employed above ground. A copy of each such notice shall be sent to the Chief Inspector, if he so requires.
 - (2) In the case of a mine at which mining operations commence, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.
 - (3) Where it is proposed to make any alternation 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.
 - (4) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).
33. **Employment of women:-** (1) No woman shall be employed in part of a mine which is below ground,
 - (2) No women shall be allowed to work in a mine above

ground between the hours of 7 p.m. and 6 p.m.

(3) The provisions of this section shall not apply to women who do not perform manual work and

a) holding positions of managerial or technical character; or

b) employed in health and welfare services.

34. **Supervising staff:-** Nothing in section 28, section 29, section 31, sub-section (4) of section 32 or in section 33 shall apply to persons who may by rules be defined to be persons holding responsible positions of a managerial or technical character or employed in health and welfare services or employed in any confidential capacity.

35. **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 the manager may, subject to the provisions of section 22 permit persons to be employed in contravention of section 27, section 28, section 29, section 31 or sub-section (4) of section 32 on such work as may be necessary to protect the safety of the mine or of the persons employed therein;

Provided that, where such occasion arises a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

(2) When as a result of grant of an exemption to any mine from the provisions of section 27, any person employed therein is deprived of any of the weekly days of rest, he shall be allowed within two months from the date on which the weekly day of rest was due, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(3) In case of prescribed proposes which are required by their nature to be carried on continuously by a succession of shifts, the limit of hours of work provided in section 28 or section 29 may, with the prior approval of the Chief Inspector, be raised to not more than fifty-six hours in any week or ten hours in any day.

(4) In exceptional, cases of pressure of work, the Chief Inspector may grant temporary exemption to a mine from the

provisions of section 27 section 28 or section 29 for a period not exceeding ninety days in any calendar year, within the maximum limits of -

- (a) ten hours of work in any day, and
 - (b) twelve hours of spread over, inclusive of intervals for rest or meal, any one day.
- (5) subject to the maximum limits specified in sub-section (4), Government, may, by order, grant permanent exemption, to such extent and subject to such condition as may be specified in the order to a class of workers engaged either on preparatory or complementary work which must necessarily be carried on outside the mines or on work which is essentially intermittent.

36. **Extra wages for overtime:-** (1) Where in a mine a person works 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 or wages, the period of overtime work being calculated on a daily basis or weekly basis, whichever is more favorable to him.

Explanation:- In this sub-section, ordinary rate or wages means all remuneration capable of being expressed in terms of money which would if the terms of contract of employment, express or implied, were fulfilled, be payable to a worker in respect of his employment or of work done in such employment, but does not include –

- (i) the value of any house accommodation, supply of light, water medical attendance or other amenity.
- (ii) any contribution paid by the owner or any persons fund improvement fund;
- (iii) any traveling allowance or the value of traveling concession;
- (iv) any sum paid to the person employed to defray special expenses entitled on him by the nature of his employment; or
- (v) any gratuity, bonus, overtime allowance or share in profits of the mine.

(2) where any person employed in a mine is paid on a piece-rate basis, the Government, in consultation with the employer concerned and the representatives of the persons employed in the mine, may for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of the persons so employed, and the rates so fix shall be deemed to be the ordinary rate of wages of such persons.

(3) The Government may prescribe the registers that shall be maintained in a mine for the purpose of securing compliance with the provisions of this section.

37. **Children:-** No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

38. **Young persons not to be allowed underground without certificates of fitness:** No persons who has not completed his seventeenth years shall be allowed to be present in any part of a mine which is below ground, unless:-

(a) a certificate of fitness in the prescribed form and granted to him by a qualified medical practitioner is in the custody of the manager of the mine, and

(b) he carries while at work a token giving a reference to such certificate.

39. **Limitation of working hours for young persons:-** No person who has not completed his seventeenth year shall be permitted to work in any part of a mine, either below ground or above ground unless the hours of work of such person for any day are so fixed as to allow an interval of rest of at least twelve consecutive hours which shall include at least such seven consecutive hours between the hours of 7 p.m. and 7 a.m. as may prescribed;

Provided that nothing in this section shall apply to any such person while employed or permitted to work any mine as an apprentice or for the purposes of receiving vocational training, in such circumstances and in accordance with such conditions as may be prescribed :

Provided further that such persons shall be granted a rest period of at least thirteen consecutive hours between two working periods.

40. **Disputes as to age:-** (1) If any question arises between the Chief

Inspector or the Inspector and the manager of any mine as to whether any person is a child or has not completed his seventeenth year, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner or any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

41. **Register of employers:-** (1) For every mine there shall be in the kept in the prescribed form and place a register of all persons employed, in the mine showing, in respect of each such person:-

- (a) Name, date of birth and the nature of his employment;
- (b) the periods of work fixed for him;
- (c) the intervals for rests if any, to which he is entitled;
- (d) the days of rest to which he is entitled; and
- (e) where work is carried on by a system of relays, the relays to which he belongs.

(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 to which the Government may, by general or special order, declare this sub-section to be applicable, there shall be kept in the prescribed form and place a register which shall show at any moment the name of every person then working below ground in the mine.

**CHAPTER VII
LEAVE AND HOLIDAYS WITH WAGES**

42. **Application of the Chapter:-** Nothing in this chapter shall effect any right or privilege to which a person employed in a mine has been entitled on the date of coming into force of this Act, under any existing law or under any award, agreement, settlement, contract, custom or usage if such right or privilege is more favorable to him, nor shall such right or privilege be combined with, or be in addition to, the benefits under the provisions of this chapter.

43. **Annual leave with wages:-** (1) Every person who has complete one year of continuous service in a mine shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated at the rate of:-

(a) One day for every seventeen days of work performed below ground during the previous period of twelve months;

(b) One day for every twenty days of work performed above ground during the previous period of twelve months;

Provided that a period of leave shall be inclusive of any holiday which may occur during such period.

(2) If a person employed in a mine does not, in any such period of twelve months, take leave to which he is entitled under sub-section (1), either in whole or in part, such leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that such person shall cease to earn leave under this section when the leave due to him amounts to twenty days:

Provided further that any leave applied for by a person but refused by the owner, agent or manager of the mine for any reason shall be added to the credit of such person beyond the aforesaid limit.

(3) If a person entitled to leave under sub-section (1) is discharged before he has been allowed the leave or, if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the owner, agent or manager shall pay him the amount payable under

section 46 in respect of the leave.

(4) For the purpose of this section, a person shall be deemed to have completed a period of continuous service in a mine notwithstanding any interruption in service during that period due to:-

- (a) any holiday;
- (b) any leave with wages;
- (c) any leave with or without due to sickness or accident
- (d) any maternity leave not exceeding twelve weeks;
- (e) any period of lay off arising, due to failure, refusal, inability of any owner on account of shortage of coal, power or raw material or the accumulation, of stock or the break-down of machinery or for any other reason, to give employment to a person whose name is borne in the muster rolls of his mine; or
- (f) a strike which is not illegal or a lookout which is not legal.

44. **Festival Holidays:-** Every person employed in a mine shall be allowed, with wages, such festival holiday as are declared by the Government to be public holidays.

45. **Casual leave and Sick Leave:-** Every person employed in a mine shall be entitled in a year to ten days casual leave on full wages and sixteen days sick leave or half average wages;

Provided that casual leave or sick leave admissible under this section shall not be accumulated and carried forward to the succeeding year.

46. **Wages during leave or holiday periods:-** For the leave or holidays allowed to a person under the provisions of this chapter, he shall be paid :-

- a) in case of leave with full wages, at the rate equal to the daily average of his wages for the days on which he actually worked during the preceding three months; and
- (b) In case of leave with half average wages, at the rate equal to half daily average of his wages as aforesaid.

47. **Payment in advance in certain cases:-** Any person who has been allowed leave for not less than four days under section 43 shall, before his leave begins, be paid the wages due for the period of the leave allowed.
48. **Power of inspector to act for workers:-** Any Inspector may institute proceedings on behalf of any person who has been or is employed in a mine, to recover any sum required to be, not, paid by an owner, agent or manager in accordance with this chapter.

**CHAPTER – VIII
REGULATIONS, RULES AND BYE-LAWS**

49. **Power of Government to make Regulations:-** The 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 qualification to be required by a person to 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;
 - (d) prescribing the qualifications of manager of mines of persons acting them;
 - (e) for regulating the manager of ascertaining by examination or otherwise, the qualifications of manager 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 the making of inquiries into charges of

misconduct or incompetence on the part of managers or mines and persons acting under them and for the suspension and cancellation of certificates of competency ;

- (i) for providing for the appointment in mines two hundred and fifty or more persons are ordinarily employed or such number of welfare and safety officers as may be specified and for prescribing the qualifications and the duties to be performed by such officers ;
- (j) for regulation, subject to the provisions of the Explosives Act, 1884, and of any rules made there-under, the storage and use of explosives ;
- (k) for regulating, subject to the provisions of the Electricity Act, 1910 (IX of 1910), and the rules made there-under, 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 ;
- (l) for prohibiting, restricting or regulation the training of employment in mines or in any class of mines, of women either below ground or on particular kind of labour which are attended by danger to the life, safety of health of such women;
- (m) for providing for and regulating the training of persons before they are employed in mines and also during the period of employment et such intervals as may be prescribed ;
- (n) for providing for and regulating the medical examination of the person before they are employee in mines and also during the period of employment at such intervals as may be prescribed;
- (o) for providing for the safety of the persons employed in a mine, their means of entrance there into and exit therefrom; the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
- (p) for prohibiting the employment in a mine either as manager or in any other specified capacity of any persons except persons paid by the owner of the mine

and directly answerable to the owner or manager or the mine;

- (q) for providing for the safety of the reeds and working places in mines, including the sitting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
- (r) for prescribing the size of traveling roads in a mine, through which load is carried by human agency and limit or load and the distance to which it is carried;
- (s) for providing for and regulation the inspection of working in disused working and sealed of fire areas in mines and for the restriction of working in a mine under or in the vicinity of graves or the sea or any lake or river or any other body or surface water, whether natural or artificial or any public roads, or buildings;
- (t) for providing for and resulting the ventilation of mines and the action to be taken in respect of dust, incising radiations, radioactive gases and dust fire and in claimable and noxious gases;
- (u) for providing for the care and the regulation of the use, or all machinery, plant, equipment and material in mines;
- (v) for providing for the safety of persons present on haulags roads in mines and for prohibiting or restricting or regulating the use of certain classes of locomotives underground;
- (w) for providing for adequate and suitable, lighting mines and for requiring and regulating the use, of safety lamps and for the search of persons entering a mine for the prescribed prohibited articles ;
- (x) for prescribing protective equipments and clothing and breathing apparatus for all persons or classes of persons employed in mines or classes of mines and requiring and regulating the used of such protective equipments, clothing and apparatus;
- (y) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising there-from, and for prohibiting,

restricting or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines;

- (z) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided or by regulations, to be furnished by owner, 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;
 - (aa) for prescribing the form of the authorities to whom, and the time within which, the notice required by sub-section (1) of section 23 shall be sent by owner, agent or manager of a mine, and the fee to be paid to the medical practitioners under sub-section (5) of that section;
 - (bb) for prescribing the plans to be kept by owner, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record;
 - (cc) for regulating the procedure on the occurrence of accident or accidental explosions in or about mines;
 - (dd) 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 14, and
 - (ee) 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 fifty yards of any railways, subject to the provisions of the Railways Act, 1890 (IX of 1890), or of any public work of classes or public works which the government may, be general or special order, specify in this behalf.
50. **Power of government to make rules:-** The 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 for the appointment of chairman and members of Mining Boards, and for regulating the procedure of such Boards;

- (b) for prescribing the form of the register referred to in section 41 sub-section (4) or section 23;
- (c) for requiring facilities and security of service to be provided to managers of mines and other persons acting under them for enabling them to efficiently discharge their duties;
- (d) for providing for the appointment of courts of inquiry under section 25, for regulating the procedure and powers of such courts, for the payment of traveling allowance to the members and for the recovery of the expenses of such courts from the manager, owner or agent of the mine, concerned;
- (e) for requiring the maintenance in mines wherein any women are ordinarily employed 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 particulars reference to the number of women ordinarily employed in the mine, the number and standards in such rooms, and- the nature and extent of the supervision to be provided therein;
- (f) for requiring the maintenance at or near pit heads of bathing places equipped with shower baths and of lockers rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mine 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 numbers of men and women ordinarily employed in a mine, the numbers and standards of such places and rooms;
- (g) for prescribing the standard in respect of construction accommodation, furniture and other equipment of the canteens, the food-stuff to be served there in and the charges which may be made therefore and the representation of the persons employed in the mines in the management of such canteens;
- (h) for prescribing the scale of latrine and urinal accommodation, to be provided at mines, the provision to be made for the supply of drinking water, the standards of first-aid rooms and shelters, the equipment

and furniture therein and the nature and extent of supervision to be provided therefore the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

- (i) for prescribing the forms of notices required under section 32, and for requiring such notices to be posted also in specified vernaculars ;
- (j) to fix seven consecutive hours between 7 p.m. and 7 a.m. for the purposes of section 39;
- (k) to specify the circumstances in which and conditions in accordance with which a young person may be employed or permitted to work as an apprentice or for the purpose of the receiving vocational training in a mine for the purposes of the provision to section 39 ;
- (l) for defining the persons who shall for the purposes of section 39, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity ;
- (m) for prohibiting the employment in mines of person 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 ;
- (n) for prescribing the form of the certificates, of fitness required by section 38 and the circumstances in which such certificates may be granted and revoked ;
- (o) for prescribing, the form of registers required by section 41 ;
- (p) to fix the time rates for the persons employed on piece rated basis and for requiring the maintenance of payment registers for overtime work and prescribing the form thereof;
- (q) for prescribing the forms in which record of applications for leave, the grant or refusal thereof and the payment of wages during Leave and holiday with wages is to be kept.

- (r) for prescribing abstracts of this Act and of the regulations and rules and the vernacular in which the tracts and bye-laws shall be posted as required by section 54, and 55;
 - (s) for requiring the fencing of any mine or part of mine whether the same is being worked or not, where such fencing is necessary for the protection of the public;
 - (t) for the protection from injury in respect of any mine when the workings are discontinued, of property vest in Government or any local authority or Railway company as defined in the Railway Act, 1890 (IX of 1890);
 - (u) for requiring notices, returns and reports in connection with any matters dealt with the 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;
 - (v) generally to provide for any matter not provided for by this Act or the regulation, provisions for which is required in order to give effect to this Act.
51. **Power of government to require rescue stations to be establishment:-** The Government may, by notification in the official Gazette make rules under this section:-
- (a) requiring establishment of control rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;
 - (b) providing for the management of central rescue stations and regulating the constitution, powers and functions of and the conduct of business by the authorities (which shall include representatives of the owners, and managers of, and of the miners employed in, the mines or group of mines concerned charged with such management;
 - (c) prescribing the position, equipment, control, maintenance and function of central rescue stations;
 - (d) providing for the levy and collection of a duty or excise

(at a rate not exceeding twenty five paisa per ton) on coke and coal produced in and dispatched from mines. specified under clause (a) in any group or included under clause (a) in any specified area, the utilization of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds;

- (e) providing for the formation, training, composition and duties of rescue brigades and ;
- (f) providing generally for the conduct of rescue work in mines

52. **Prior publication of regulations and rules:-** (1) The power to make regulations and rules conferred by section 49, 50 and 51 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, 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.

(3) Before the draft of any regulation is published under this section it shall be referred to every Mining Board constituted in Azad Jammu and Kashmir, which is, in the opinion of the Government, concerned with the subject dealt with by the regulation and the regulation shall not be so published until such Board has had a reasonable opportunity of reporting as to the expediency or making the same and as to the suitability of its provisions.

(4) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the part of Azad Kashmir effected by the rule, and unless each Mining Board 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 subsection (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (e)

or clause (f) of section 50 are made.

53. **Power to make regulations without previous publication:-** Notwithstanding any thing contained in sub-sections (1) (2) and (3) of section 52, regulations under clause, (j) and clauses (o) to (cc) inclusive of section 49 may be made without previous publication and without previous reference to mining Board, If the 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 not remain in force for more than, two years from the making thereof.

54. **Bye-laws:-** (1) The owner, agent or manager of a 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 rates for the time being in force, for the control and guidance of the persons acting in the management of or employed in, the mine prevent accidents and provide for the safety, convenience and discipline of the persons 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 well, 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

draft bye-laws or draft amendments are sent by the Chief inspector or Inspector to the owner, agent or manager under the provisions of subsection (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 subsection (1), the Chief - inspector or Inspector shall refer the draft bye-laws for settlement to the mining Board or, where there is no Mining Board, to such officer or authority as the Government may by general or special order, appoint in this behalf.

(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 mining Board or such officer or authority as aforesaid a copy of the draft bye-laws shall be sent by chief inspector or inspector to the Government for approval.

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

(c) Before the Government approves the draft bye-laws whether with or without modification they shall be published, in such manner as the 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 Government.

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

(i) the specific grounds of objection, and

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

(e) The 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 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 vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near mine, where the bye-laws may be conveniently read or seen by the persons employed and, as often as the same became defaced obliterated or; destroyed, shall cause them to be renewed with all reasonable dispatch.

(6) The Government may order in writing rescind, in whole or in part, any bye-laws so made and thereupon such shall cease to have effect accordingly.

55. **Posting up of extracts from act regulations, Etc.-** There shall be kept posted up at or near every mine in English and in such vernacular or vernaculars as may be prescribed the prescribed abstracts of the Act and of the regulations and of the regulations and rules.

CHAPTER – IX PENALTIES AND PROCEDURE

56. **Obstruction:-** (1) whoever obstructs the Chief Inspector or Inspector or any person authorised under section 6 in the discharge of his duties under this Act, or refuses or willfully neglects to afford the Chief inspector or Inspector or such person any reasonable facility for making any entry inspection, examination or inquiry authorised lay 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 one thousand rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief inspector or inspector any register 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 six hundred rupees.

57. **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 or register or record the maintenance of which is required by or under this Act, 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.
58. **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, 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 four hundred rupees.
59. **Contravention of provisions regarding employment of labour:-** Whoever, save as permitted by section 35, contravenes any provision of this Act or of any regulation, rule or bye-laws or of any order made there under prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to one thousand rupees.
60. **Notice of accidents:-** (1) Whoever, in contravention of the provisions of sub-section (1) of section 23, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to one thousand rupees or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.
- (2) Whoever in contravention of a direction made by the Government under sub-section (2) of section 23 fails to record in the prescribed register or to be notice of any accidental occurrence shall be punishable with fine which may extend to one thousand rupees.

61. **Disobedience of orders:-** - Whoever contravenes any provisions of this Act or of any regulation, rule or bye-laws or of any order made there-under for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to two thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to two hundred rupees and in the case of a continuing contravention, with a further fine which may extend to two Hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.
62. **Contravention of law with dangerous results:-** Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any order made there under, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to four thousand rupees or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both; or if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to one thousand rupees or with both.
- (2) Where a person having been convicted under this section is again convicted there under, he shall be punishable with double the punishment provided by sub-section (1).
- (3) Any Court imposing, or confirming in appeal, revision of otherwise, a sentence of fine passed under this section may when passing being 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 his 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.
63. **Special provision regarding fine:-** Notwithstanding anything contained is section 52 of Code of Criminal procedure 1898 (Act V of 1898) it shall be lawful for the Magistrate of the 1st class to pass a sentence of fine not exceeding one thousand rupees authorised by this Act, on any person convicted of an offence

there-under.

64. **Prosecution of owner 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 of the District Magistrate or of an inspector authorised in this behalf by general or special order in writing by the Chief inspector.
65. **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
 - (iii) in any case where a person has been appointed by the Government under section 25 to hold an inquiry within six months of the date of the making of the report referred to in sub-section (4) of that section which ever is the later.
66. **Cognizance of offences:-** No Court inferior to that of a 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.
67. **Reference to mining board or committee in lieu of prosecution in certain cases:-** (a) 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 Mining Board or Committee, it may stay the criminal proceedings and report the matter to the Government with a view to such reference being made.
- (b) On receipt of a report under sub-section (1), the Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

**CHAPTER – X
MISCELLENOUS**

68. **Decision of question whether a mine is under this act:-** If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Government may decide the question, and a certificate signed by a secretary of the Government shall be conclusive on the point.
69. **Power to exempt from operation of act:-** (1) The 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 specified provisions of this Act:
- Provided that no local area or mine or group or class of mine shall be exempted from, the provisions of section 37 unless it is also exempted from the operation of all the other provisions of this Act:
- Provided further that no exemption from, the operation of the provisions of section 28 or section 29 or section 30 shall be granted except in the event of war or other emergency threatening the national safety.
70. **Power to after of rescind orders:-** The Government may reverse or modify any order passed under this Act.
71. **Application of act to government mines:-** This act shall also apply to mines belonging to the Government.
72. **Bar of jurisdiction:-** No suit, persecution 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.

یہ مسودہ قانون، قانون ساز اسمبلی آزاد جموں و کشمیر نے مورخہ ۱۰ جولائی ۱۹۷۷ء کو منظور کیا۔

سپیکر

قانون ساز اسمبلی آزاد جموں و کشمیر

میں اس کی توثیق کرتا ہوں۔

صدر
آزاد جموں و کشمیر