



KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 13th January, 2020.

No. PA/Khyber Pakhtunkhwa/Bills-53/2020/807.— The Khyber Pakhtunkhwa Mines, Safety, Inspection and Regulation Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 27th December, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 8th January, 2020 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA MINES, SAFETY, INSPECTION AND REGULATION ACT, 2019.

(KHYBER PAKHTUNKHWA ACT NO.V OF 2020)

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 13th January, 2020).*

AN
ACT

*to consolidate and amend the law relating to the safety of mines and mining
operations and the inspection and regulation of mines, mining operations
and materials used therein; to promote and improve the safety and
health of persons working in mines and for connected purposes.*

WHEREAS it is expedient to consolidate and amend the law relating to the safety of mines and mining operations and the inspection and regulation of mines, mining operation and materials used therein; to promote and improve the safety and health of persons working in mines and for purposes connected therewith and ancillary thereto.

It is hereby enacted as follows:

CHAPTER-I PRELIMINARY

1. **Short title, extent and commencement.**— (1) This Act may be called the Khyber Pakhtunkhwa Mines Safety, Inspection and Regulation Act, 2019.

(2) It shall extend to the whole of the Province of Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. **Definitions.**---In this Act, unless there is anything repugnant in the subject or context-

- (a) **“accident”** means an accident occurring during the course of employment and resulting in a personal injury, illness or death of an employee;
- (b) **“adit”** means a horizontal or nearly horizontal opening which is open at one end;
- (c) **“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 amine manager under this Act and shall possess such qualification and experience as may be prescribed;
- (d) **“apprentice”** means a person who is working as a trainer in mine;
- (e) **“Board of examiners”** means the Board of examiners constituted under section 14;
- (f) **“Certificate of Competency”** means a Certificate of Competency issued by the Board of examiners;
- (g) **“certificate of fitness”** means a Certificate of fitness issued to a person under this Act pursuant to medical examination;
- (h) **“Chief Inspector”** means the Chief Inspector of mines Khyber Pakhtunkhwa appointed under section 3;
- (i) **“child”** in case of mining means a person who has not completed his eighteen years of age;
- (j) **“competent person”** in relation to any mine, or any machinery or equipment means a person who has been duly appointed or designated in writing by the mine manager to perform that work which the person is qualified to perform by knowledge, training and experience and includes foremen, mine sirdars, shot firers, mine supervisors, winding enginemen, electricians, mechanics, magazine in-charges, blaster, compressor drivers, locomotive drivers, haulage drivers, etc. as required under the law;
- (k) **“danger”** means anything which may cause injury or damage to persons or property;
- (l) **“day”** means a period of twenty-four hours beginning at midnight;
- (m) **“Department”** means the Minerals Development Department, Government of Khyber Pakhtunkhwa;
- (n) **“development”** in relation to a mining operations includes all kinds of works undertaken to open up a mine by driving development openings or pre-stripping of an open-cut body of rock or ore;

- (o) **“duly qualified person”** means a person who possess the prescribed qualification and experience;
- (p) **“employee”** means a person who is employed as a worker or who works under appointment by or with the knowledge of the owner, agent or mine manager, whether for wages or not-
- (i) in any mining operation including the concomitant operations of handling and transport of mineral up to the point of dispatch;
 - (ii) in operations or services relating to development of the mine including construction of plant, buildings, roads, foot path, wells and any building work connected with existing or future mining operations;
 - (iii) in operating, servicing, maintenance or repairing any part of any machinery used in or about the mine or in any office of the mine;
 - (iv) in loading operations for dispatch of minerals within the premises of the mine;
 - (v) in any health, sanitary or conservancy services required to be provided under this Act, or watch and ward, within the premises of mine; and
 - (vi) in any kind of work whatsoever which is preparatory or incidental to, or connected with mining operations.
- (q) **“Explosive Act”** means the Khyber Pakhtunkhwa Explosive Act, 2013 (Khyber Pakhtunkhwa Act No. XXIV of 2013);
- (r) **“Government”** means the Government of Khyber Pakhtunkhwa;
- (s) **“Health Inspector”** means a person appointed as Health Inspector under section 3;
- (t) **“health and safety standard”** means any standard in accordance with the criteria set by the World Health Organization for mines and mining operations;
- (u) **“incline”** means an opening driven inclined into the ground and used for transportation of men and material in or out of the mine;
- (v) **“Inspector”** means the Deputy Chief Inspector of mines, the Senior Inspectors, the Inspectors and Junior Inspectors of mines appointed under section 3;
- (w) **“magazine”** means a building of special design approved by the Chief Inspector of explosives and Chief Inspector of mines;
- (x) **“maternity benefit”** means the payments made under chapter-IX of this Act;
- (y) **“Mining Board”** means the Mining Board constituted under section 12;

- (z) **“mining operation”** means any method of working by which the earth or any rock structure, coal seam, stone, mineral bearing substance is disturbed, dealt with for the purpose of obtaining any minerals or rock from it for commercial purposes or for subsequent use in industry, and includes-
- (i) exploration operation, development and construction work associated with opening up or operating a mine, the removal and disposal of overburden or waste or residues by mechanical or other means;
 - (ii) the operation of any support facilities on the mine site, include mining administration offices, workshop and service buildings, operations by means of which any mineral is recovered from the rivers or a natural water supply;
 - (iii) operations of residential facilities and recreational facilities and the ground use for that purpose, where such facilities are located on mining tenement and are used only in connection with mining operations; and
 - (iv) operations under taken for the environmental rehabilitation of the mine site during production operations and after their completion and operations for the care, security and maintenance of a mine and plant at the mine under taken during any period when production or development operations are suspended and operations under taken to leave a mine safe to be abandoned;
- (aa) **“mine”** means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, whether above or below ground, and includes:
- (i) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;
 - (ii) all conveyors or tram ways provided for bringing into or removal from a mine of minerals or other articles or for removal of refuse therefrom;
 - (iii) all adits, levels, raise, winze, inclined planes, machinery, works, railways, tram ways and sidings in or adjacent to and belonging to a mine;
 - (iv) all protective works being carried out in or adjacent to a mine;
 - (v) all workshops and stores situated within the precincts of mine under the same management;
 - (vi) all power station, transformer stations, conveyor stations, rectifier stations and accumulator storage stations for supply of electricity solely for the purpose of working in the mine; and
 - (vii) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting dressing or preparation for sale of minerals or of coke is being carried on;
- (bb) **“mine guard”** means a mine guard appointed under sub-section (2) of section 3;

- (cc) **“mine manager”** in relation to a mine, means a person possessing the prescribed qualification and experience and duly appointed by the owner or agent of a mine to be incharge of a mine under this Act;
- (dd) **“major accident”** means an occurrence of catastrophic proportion involving loss of human lives and destruction of property resulting from methane gas or coal dust explosion, collapse of mine, land subsidence, inundation or flooding of mine, toxic gases etc;
- (ee) **“occupational disease”** means a disease resulting from conditions of employment usually from long exposure to environment or substance injurious to physical or mental health or from continuous repetition of certain acts;
- (ff) **“owner”** when used in relation to a mine, means any person who is the licensee or lessee of the mine but does not include a person who is merely the owner of the soil, and includes-
- (i) a mortgagee in possession of such mine or part thereof;
 - (ii) in case of a mine, the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver;
 - (iii) in case of a firm or other association of a person, all the individual partners or members thereof;
 - (iv) in case of a foreign company, all or any of its principal officers, by whatever name called, including its director or secretary;
 - (v) in case of local authority or body, the person having the ultimate control over such authority or body; and
 - (vi) a company incorporated in the country, the managing director, all or any of the directors thereof;
- Provided that in case of a body corporate without the managing director, or in the case of a firm or other association of the persons, where a specific nomination has been made in favor of a whole time director, managing partner or member, as the case may be, such whole-time director, managing partner and member shall be the owner;
- (gg) **“plant and machinery”** means any mining machinery and include fixture, fitting, equipment, tools and appliances and anything which is used for any purpose in the mine;
- (hh) **“prescribed”** means prescribed by rules made under this Act;
- (ii) **“Province”** means the Province of Khyber Pakhtunkhwa;

- (jj) **“qualified medical practitioner”** means any person possessing the prescribed qualification and experience and registered with Pakistan Medical and Dental Council or any person notified by Government to be a qualified medical practitioner for the purposes of this Act;
- (kk) **“quarry or open cut or open pit”** means a surface mining operation in which minerals or rocks is extracted from the earth by excavating into a natural surface gradient and includes, strip mining, excavation of sand, clay and gravel, hydraulic mining;
- (ll) **“quarry manager”** in relation to a quarry, means a qualified person appointed by an owner or agent of a quarry possessing a manager permit appointed by the owner or agent of a quarry responsible for control and direction of quarry operations;
- (mm) **“raise”** means an opening driven from a lower level to an upper level inside a mine to connect both;
- (nn) **“relay”** means the sets or group of employees which carry out the same kind of work during different period of the day;
- (oo) **“reportable injury”** means any injury other than serious bodily injury which involves or in all probability will involve the enforced absence of the injured person from work for a period of at least two days;
- (pp) **“risky work”** means an environment in which any kinds of mining operations may probably cause occupational disease or injury or damages;
- (qq) **“rules”** means rules made under this Act;
- (rr) **“Secretary”** means the Secretary Minerals Development Department, Government of Khyber Pakhtunkhwa;
- (ss) **“section”** means section of this Act;
- (tt) **“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 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;
- (uu) **“shaft”** means an opening driven vertical or near to vertical into the ground used for raising and lowering men or material in or out of the mine;
- (vv) **“shift”** means a period of eight hours including rest interval;
- (ww) **“shot firer or Blaster”** means a person who possess a blaster/shot firer certificate and is appointed by the manager in writing to perform the duty of a blaster or shot firer in any mine;
- (xx) **“Surveyor”** means the Surveyor appointed under sub-section (2) of section 3;

- (yy) **“under manager”** means a person who possesses the prescribed qualification and experience and appointed in writing by the owner, agent or manager to be incharge of the whole of the underground or surface workings or a specified portion thereof under the direction of the manager and is thus superior to a mine foreman, supervisors and a mining mate;
- (zz) **“week”** means the period of seven days between midnight on the Saturday night and midnight on the succeeding Saturday night;
- (aa-i) **“winze”** means an opening driven from upper level to a lower level inside a mine to connect both; and
- (aa-ii) **“workplace”** means any premises or place where a person performs work in the course of his employment;

CHAPTER-II INSPECTORS

3. Chief Inspector and Inspectors.---(1) Government may, by notification in the Official Gazette, appoint a duly qualified person to be the Chief Inspector of mines for the whole of the Province and such other duly qualified persons to be the Inspectors and Health Inspectors who shall be subordinate to the Chief Inspector.

(2) Government may appoint a duly qualified person to be the Surveyor and such number of mine guards to perform such duties as assigned to them by the Chief Inspector under this Act.

(3) No person shall be appointed as Chief Inspector or 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 the Province.

4. Powers and functions of Chief Inspector and Inspectors.---(1) The Chief Inspector and Inspectors authorized by the Chief Inspector may-

- (a) with such assistance as he thinks fit, enter, inspect and examine any mine or any part thereof and make inquiry respecting the state and condition relating to the safety, the health of persons employed as such in the mine;
- (b) to ensure that the provisions of this Act, and rules made thereunder are complied with;
- (c) bring into use at any mine or at any other place, vehicles, equipments and materials to perform functions under this Act and of the rules and of any order made thereunder;
- (d) enter and inspect any substance and test mine equipments and machinery so as to ensure their safety and compliance to environment;
- (e) investigate and inquire into mines accidents for identification of cause of the accident and its future prevention;

- (f) examine into and make inquiry respecting the state and condition of any mine or any part thereof, the adequacy of ventilation of the mine, presence of toxic gases, underground lighting, underground timbering and support system and all matters and things connected with or relating to the safety and health of persons employed in the mine;
- (g) direct any employer or employee to appear before him at such time and place as stated in the notice in writing and investigate or inquire such employer or employee either alone or in the presence of any other person or take, whether on the precincts of the mine or elsewhere, statement of any person which he may consider necessary for carrying out the purposes of this Act:

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

- (h) require the production of any book, register or other document, the keeping of which is prescribed, in order to see that they are in conformity with the provisions of this Act, rules made thereunder and take into his custody or make copy of or seize any book, record, register or other document or any such article or substance which may in his opinion serve as evidence at the trial of any person charged with an offence under this Act;
- (i) examine the mine officials for the purpose to produce relevant certificate of competency required for mine managers, certificate of medical fitness for persons employed in the mine and other certificates required for supervising staff as mentioned under section 47;
- (j) after informing the owner, agent or manager or his representative, take or remove for the purpose of analysis, samples of mineral, materials and substances used or handled in the mine;
- (k) suspend or halt the operations or performance of any act or practice at the mine or a part thereof which may endanger or affect safety, health, comfort or performance of any person working in a mine;
- (l) make sure that all the responsibilities and duties imposed upon the owner, agent or manager under this Act or the rules made thereunder or any other Law for the time being in force are complied with by such owner, agent or manager;
- (m) order the compliance with any or all of the provisions or conditions specified in the notice and extend period specified in the order or notice, if deemed necessary, by the Chief Inspector on the request of owner, agent or manager in writing;
- (n) conduct training and education program relating to mining, occupational safety and health and mine rescue techniques and demonstrate the use of safety equipments; and

- (o) issue certificate of proficiency to a qualified person to perform specific job or duty for which he proves himself to be competent.

(2) The Chief Inspector shall, when so requested by any person producing prima facie evidence of an offence or receive any information from any source, direct an Inspector to conduct an inquiry into an accident which has occurred at or in the mine or originated from machinery, plant, at or in the mine which has resulted or in the opinion of the Chief Inspector could have resulted in the injury, illness or death of any person working in the mine.

5. Power of the Chief Inspector to declare the local area or group of mines with respect to which an Inspector may exercise powers.---(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 such Inspectors by this Act, and declare the area or areas within which, or the group or class of mines with respect to which the Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to the owner, agent or mine manager 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 rules which concern them respectively and as to the places where copies of such rules may be obtained.

6. Powers and functions of Health Inspector.---The Health Inspector authorized by the Chief Inspector may-

- (a) enter upon any mine or place in a mine where a person who works or has worked or intends to work is to be medically examined or where any person who works or has worked at mine is being nursed or medically treated;
- (b) with such assistance, if any, as he think fit enter, inspect and examine any mine or any part thereof and make enquiry respecting the state and condition relating to safety and health of the persons employed in the mine;
- (c) attend any medical examination of such person and with his consent examine him or to be medically examined by any other medical specialist;
- (d) inspect first aid facilities, dispensary services provided at the mine by the owner or Government, test or view any instrument, appliances which is being or has been used in connection with any medical treatment of the employees or person injured during working in the mine and demand for any documents in which any information relating to the treatment has been recorded and make copies of or extracts from it;
- (e) enter upon any place where persons who work or have worked or intend to work at a mine or to be radiologically examined, and at a place carry out such tests, measurements and observations as may be required;
- (f) demand and examine any laboratory test or radiological photograph of the employee taken during medical examination and treatment;

- (g) by order in writing to the owner, agent, or mine manager, require any person employed in the mine to appear before him at any time and place specified in the notice to be medically examined or to produce any book, register, record and medical prescriptions required by him;
- (h) direct the owner, agent or mine manager to make such arrangement as he deems necessary or desirable for the proper investigation and medical treatment of any disease which has affected or which tend to affect the health of persons employed in or at the mine from any Government hospital;
- (i) develop and maintain medical monitoring program for employees, investigate health related complaints and order compliance with the health provisions;
- (j) collect samples of dust, gases, vapors and other potentially toxic material for analysis;
- (k) grant fitness certificate in the prescribed form if he is of the opinion that such person is fit for employment in the mine and may refuse to issue such certificate to any person if his health is in the opinion of the Health Inspector in a condition that he can endanger his own life or safety or health of other persons employed in the mine and inform the owner, agent or mine manager of the reason for the refusal; and
- (l) perform any other function assigned to him by the Chief Inspector or the Inspector concerned from time to time.

7. Powers of special officer to enter, measure, etc.--- Any person in the service of the Province duly authorized by a special order in writing by the Chief Inspector or by an Inspector in this behalf may, for the purpose of inquiry, inspection, surveying, leveling or measuring in any mine, after giving not less than three days notice to the owner, agent or mine 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 mine:

Provided that no such notice need to be given if, for reasons to be recorded in writing, the Chief Inspector or an Inspector is of the opinion that there is an emergency.

8. Functions of Surveyor.---(1) The Surveyor may, with prior permission of the Chief Inspector or an Inspector, frequently inspect the mines to-

- (a) examine and evaluate the mine development plan and work carried out by the mine owner, agent or mine manager to ascertain whether it is prepared and maintained in accordance with the provisions of this Act, and rules or any order made thereunder;
- (b) assistance to an owner, agent or mine manager in the implementation of present or proposed mine developmental plan on scientific lines as directed by the Chief Inspector or the Inspector concerned;
- (c) ensure compliance of the order issued by the Chief Inspector or an Inspector in connection with restoration of proper underground mine ventilation and provisions for the development of clear outlets by the mine owner;

- (d) surveying, leveling and measuring in any underground and surface mine or conduct underground ventilation survey and record quality and quantity of circulating air to ascertain whether it is in conformity with the prescribed standard or not;
- (e) collect and properly maintain data pertaining to all kinds of mineral titles, mines, quarries, employees, underground and surface plans;
- (f) keep the Chief Inspector and Inspector concerned informed in writing of the activities carried out by him in the field and shall make recommendations in writing to the Chief Inspector or an Inspector; and
- (g) perform any other function assigned to him by the Chief Inspector or Inspector.

(2) The Surveyor may, after giving not less than three days notice to the owner, agent or mine manager, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time in such a way not to impede or obstruct the workings of the mine:

Provided that no such notice needs to be given if, for reasons to be recorded in writing, the Chief Inspector or the Inspector is of the opinion that there is an emergency.

9. Facilities to be afforded to Chief Inspector or Inspectors.---(1) Every owner, agent or mine manager shall afford the Chief Inspector, and every Inspector, Surveyor and every person authorized under section 7 all reasonable facilities for making entry, inspection, examination, survey, measurement, inquiry or imparting training at mining site to persons employed in the mine under this Act.

(2) The owner, agent or mine manager of every mine shall furnish to the Chief Inspector or an Inspector concern all maps, drawings and plans of the mine, together with the plans of all contemplated changes in the manner of working in the mine or any part thereof, and appliances to make a proper inspection and all other facilities required for such entry, examination and inspection.

10. Confidentiality of information obtained.--- All copies and extracts from registers or other records pertaining to any mine, and all other information acquired by the Chief Inspector or any Inspector or by any one assisting him in the course of an inspection or survey of any mine under this Act or acquired by any person authorized under section 7 in the exercise of his duties shall be disclosed to any person on his demand if required for use in the public interest or required by order of a competent court or for implementation of this Act or a Committee constituted under section 18 or inquiry committee constituted under section 38 or a Deputy Commissioner or a Judicial Magistrate or a Workmen's Commissioner appointed under the Khyber Pakhtunkhwa Workmen's Compensation Act, 2013 (Khyber Pakhtunkhwa Act No. IX of 2013) or an official superior to the owner, agent or mine manager concerned or any registered trade union unless the Chief Inspector, an Inspector or the Health Inspector considers that its disclosure is detrimental to the public interest, the life, health and safety of any person employed in or at the mine.

11. Secrecy of the source of complaint.--- The Chief Inspector shall treat as absolutely confidential, the source of any complaint bringing to his notice a defect or breach or any provision of this Act or any rules made thereunder and shall not give any intimation to the owner, agent or mine manager that inspection was made in consequence of the receipt of such a complaint.

CHAPTER-III
MINING BOARDS AND COMMITTEE

12. Constitution of Mining Board.---(1) Soon after the commencement of this Act, the Secretary shall by notification in the official Gazette constitute for the Province a Mining Board, which shall consist of-

- | | |
|---|-----------------------|
| (a) Additional Secretary Mineral Development Department; | Chairman |
| (b) Chief Inspector; | Member |
| (c) Commissioner Mines Labor Welfare; | Member |
| (d) two persons to represent the interest of employers nominated by the Mine Owners Association Khyber Pakhtunkhwa; | Member |
| (e) Two persons to represent the interest of employees nominated by the registered trade union: | Member |
| Provided that if there is no such union then shall be nominated and notified by the Secretary; and | |
| (f) the Senior Inspector of Mines. | Member-cum-Secretary. |

(2) The members at clause (d) and clause (e) of sub-section (1) shall be appointed for a period of three years:

Provided that on expiry of the term for which he is appointed, any member shall be eligible for reappointment.

(3) Appointment, removal, resignation, and qualification of the members at clause (d) and clause (e) shall be regulated in the manner as may be prescribed.

(4) The members at clause (d) and clause (e) of sub-section (1) shall be allowed travelling and daily allowance for attending the meetings of the Mining Board at the rate admissible to the BPS-18 officers of Government.

(5) The Mining Board shall conduct its business in such a manner as may be prescribed.

13. Powers and functions of Mining Board.---(1) The Mining Board may exercise all the powers and functions for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provisions, the Mining Board shall-

- (a) recommend any amendment in this Act or the rules made there under as and when required;
- (b) to develop policies, provide mechanism for inspection, mine management, training of mine owners and workers and other related issues;
- (c) give policy guide lines with respect to mining operations in the Province or any legal issue connected therewith; and
- (d) any other function which may be assigned to it in the prescribed manner.

(3) The Mining Board constituted under section 12 and the Committee constituted under section 18, shall have the powers of the Civil Court under the Civil Procedure Code, 1908 (Act No. V to 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects and every person required by the 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 Pakistan Penal Code 1860 (Act No. XLV of 1860).

14. Constitution of Board of Examiners.---Within three months of the commencement of this Act, the Secretary shall, by notification, constitute a Board of Examiners which shall consist of the Chief Inspector of Mines, who shall be the Chairman of the Board, and three members possessing relevant technical qualification who shall be appointed by the Secretary for a term of three years:

Provided that on the expiry of the term for which he has been appointed, any member shall be eligible for re-appointment.

15. Powers and functions of Board of Examiners.---(1) The Board of Examiners may grant the following competency certificates, namely:

- (a) First and Second Class Certificate of competency to manage the mines;
- (b) Certificate of Competency to surveyors to survey the working of mines;
- (c) Sirdar's Certificate to make the inspections of mines;
- (d) Blaster/Shot firer's Certificate to conduct blasting operations in mines; and
- (e) any other certificate of competency as may be prescribed.

(2) For the purpose of sub-section (1) the Board of Examiners shall conduct examinations and prescribe the course for each certificate in the manner as may be prescribed.

16. Powers of the Board of Examiners to cancel certificates, etc.---Where it appears to the Board of examiners that any person holding any certificate, has been guilty of misconduct or incompetency in the discharge of his duties or has been convicted of any offence made punishable by this Act with fine or imprisonment, the Board shall cancel or suspend the certificate granted by it to such person.

17. Recovery of expenses.---The Secretary may direct that the expenses of any enquiry conducted by the Mining Board or by a Committee constituted under section 18, shall be borne in

whole or in part by the owner or agent or mine manager concerned and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Deputy Commissioner having jurisdiction at the place where the mine is situated or where such owner or agent or mine manager is for the time being residing, be recovered by the distress and sale of any movable property within the limits of such Deputy Commissioner's jurisdiction belonging to such owner or agent or mine manager.

18. Committee.---(1) There shall be a Committee to be notified by the Secretary to which any question relating to a mine under this Act may be referred by the Secretary.

(2) The Committee constituted under sub-section (1) shall consist of-

- (a) a Chairman nominated by the Secretary;
- (b) a duly qualified person nominated by the Secretary to dispose of the question referred to the Committee; and
- (c) two persons of whom one shall be nominated by owner, agent or mine manager concerned and the other shall be nominated by the Secretary to represent the interest of the persons employed in the mine.

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

(4) The Committee shall-

- (a) proceed to inquire into the questions or matter referred to it;
- (b) hear and record such information as the Chief Inspector, an Inspector, owner, agent or mine manager concerned, may place before it; and
- (c) intimate its findings and recommendation to the Secretary for implementation orders.

(4) On receiving such report, the Secretary shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or mine manager has lodged an objection to the findings and recommendations of the Committee, in which case the Secretary may proceed to review such findings and recommendations and to pass such order and in such a manner as he may think fit. If an objection is lodged by the Chief Inspector or Inspector, notice of the same shall forthwith be given to the owner, agent or mine manager.

(5) Secretary may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration to be paid by the owner, agent or manger of the mine.

CHAPTER-IV MINING OPERATIONS AND MANAGEMENT OF MINES

19. Notice to be given before commencement of mining operations.---(1) The owner, agent or mine manager shall one month before the commencement of any mining operations, give to the

Chief Inspector and to the Deputy Commissioner of the District in which the mine is situated, notice in writing in such form and containing such particulars relating to the mine 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 mining operations shall commence unless a second notice has been given in accordance with sub-section (1).

20. Mine Manager.---(1) Every mine shall be under one mine manager, who shall have the prescribed qualifications and experience 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 qualification and experience to be a Mine Manager.

(2) No mining operation shall be allowed to be conducted without the supervision of a Mine Manager as required under sub-section (1).

(3) If any mine is worked without there being a mine manager as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

21. Mine Surveyor.---(1) The owner, agent or mine manager of every underground mine shall appoint a duly qualified surveyor, who shall be responsible for the accurate underground and surface plan of the mine drawn and updated in the prescribed form and shall also be responsible for necessary measurements, calculations, assessment and shall assist the mine manager, mining engineer and mine supervisors in the development of the mines.

(2) In case of surface mining if, it appears to the Inspector that the appointment of Surveyor by the owner is reasonably necessary, the Chief Inspector on request of the Inspector may direct the owner, agent or mine manager in writing to appoint a Surveyor within such time as specified in the order.

(3) If any dispute arises between the Inspector and the mine owner, agent or mine manager on the issue of appointment of a Mine Surveyor, the same shall be referred to the Chief Inspector and the decision of the Chief Inspector in the dispute shall be final.

(4) If any mine is worked without a Mine Surveyor as required by sub-section (1) or sub-section (2), the owner, agent, or mine manager shall each be deemed to have contravened the provisions of this section.

22. Duties and responsibilities of owner, agent and mine manager.---(1) The owner, agent and mine manager of every mine shall be responsible that all operations carried on in connection therewith a mine are conducted in accordance with the provisions of this Act and rules and of any order made thereunder.

(2) Without prejudice to any of the provision of this Act or any other law for the time being in force, the owner of every mine shall appoint-

- (a) sufficient number of competent persons, having the requisite qualification and experience for the effective supervision of all mining operations, equipments, installations at the mine or part thereof, in such manner and capacity as may be prescribed to ensure compliance with the provisions of this Act and the rules or any order made thereunder; and

- (b) such number of competent persons as may be required for carrying out mining operations in an effective and safe manner and specify the functions, duties and responsibilities in respect of each such competent person.

(3) The owner, agent or mine manager shall, in respect of each employee referred to above forthwith send letter of appointment of such employees to the Chief Inspector and Inspector in writing specifying their names, address, qualification, duties and responsibilities for which they have been appointed.

(4) In the event of any contravention of any of the provisions of sub-section (1), (2) and (3), the owner, agent, or mine manager shall each be deemed guilty of such contravention unless he proves that he had taken all reasonable means and to the best of his knowledge enforcing these provisions to prevent such contravention.

CHAPTER-V PROVISIONS TO HEALTH AND SAFETY

23. Conservancy.--- There shall be provided and maintained for every mine latrine and urinal accommodation of such kind, on such scale and such supply of water fit for drinking by the owner, as may be prescribed.

24. Canteens.--- At every mine wherein more than hundred persons are ordinarily employed, a canteen of such standard, as may be prescribed, shall be provided for the use of persons employed therein by the owner.

25. Shelters.--- There shall be provided and maintained for use of persons working above ground in a mine, during intervals of rest, shelters of such standard and on such scale by the owner as may be prescribed.

26. Mine office.--- There shall be provided and maintained an office at or near the mine for the Mine Manager and concerned staff of such standard and scale as may be prescribed.

27. Medical appliances.---(1) In every mine there shall be provided and maintained so as to be readily accessible during all working hours, such numbers of first aid boxes or cupboards or rooms equipped with such contents by the owner as may be prescribed.

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

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

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

(5) The first-aid room shall be of such size, with such equipment and in charge of such medical and nursing staff as may be prescribed.

28. Powers of Inspectors when causes of danger not expressly provided in this Act.---(1) If in respect of any matter for which no express provision is made by or under this Act, it appears to the Chief Inspector or 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, supervision, management or direction thereof, is posing risk, dangerous to human life, health, safety, or defective so to threaten or tend to the bodily injury of any person, he shall give or send notice in writing thereof to the owner, agent or mine manager of the mine and shall state in the notice the particulars which he considers the mine or part thereof or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as may be specified in the notice.

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

(3) 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 Government may by notification declares that this sub-section applies to all mines in the Province, other than mines of nuclear substances, order in writing addressed to the owner, agent or mine manager to 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 the life, health or safety of persons employed therein, or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire or flooding.

(4) If the Chief Inspector or the Inspector authorized in this behalf by a general or special order in writing by the Chief Inspector, is of the opinion that there is urgent and imminent 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 he is satisfied that the danger has been removed, the employment in or about the mine or part thereof of any person where such employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(5) The period specified in the notice issued under sub-section (1), and order issued under sub-sections (2), (3) or (4), as the case may be required for removal of danger and restoration of safety to the satisfaction and disposal of threat may, on the application of the owner, agent or mine manager be extended by the Chief Inspector but the total period extended on the application shall not exceed ninety days.

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

(7) The Chief Inspector or the Inspector sending a notice under sub-section (1) or making an order under sub-sections (2), (3) or (4) and the Chief Inspector making an order

(other than an order of cancellation) in appeal under sub-section (5) shall forthwith report the same to the Secretary and shall inform the owner, agent or mine manager that such report has been so made.

(8) If the owner, agent or mine manager objects to a notice sent under sub-section (1) or to an order made under sub-sections (2), (3) or (4) by the Chief Inspector or Inspector or an order made by the Chief Inspector under sub-section (5), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Secretary, who shall, ordinarily within a period of one month from the date of receipt of the objection, refer the same to a Committee.

(9) Every notice containing the requisition made under sub-section (1) or order made under sub-sections (2), (3), (4) or (6) to which reference is made under sub-section (8), shall within one month of the receipt of the reference, make recommendation to the Secretary.

(10) The Secretary shall within fifteen (15) days of the receipt of recommendation under sub-section (9) pass orders based on the recommendations of the Committee:

Provided that where the Secretary issues orders contrary to the recommendation of the Committee, he shall record his reasons in writing.

(11) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898 (Act V of 1898).

29. Responsibility of the owner, agent and mine manager to respond to section 28.---(1) Any instruction, notice or order received under sub-sections (1), (2), (3) and (4) of section 28, the owner, agent or mine manager shall-

- (a) immediately without delay, comply with the instructions, or order communicated through registered notice with in such period as specified in the notice;
- (b) prepare a detail action plan referring to the Inspector various instructions, notice or order and to designate specific persons to perform the necessary functions;
- (c) furnish a copy of such action plan within one month of the receipt of instructions, notice or order to the Chief Inspector for consultation and change if considered necessary by the Chief Inspector; and
- (d) make sure that the action plan is executed under the direct supervision of mine manager or by competent person appointed by mine manager for the purpose. If any difficulties arise out of implementation of the plan, it must be and without delay brought in writing along with practicable proposals in the notice of the Chief Inspector, for further necessary action and implementation.

(2) If the instructions are unfound, the owner, agent or mine managers, as the case may be, approach to the Chief Inspector to grant declaratory order and interdict.

30. Powers of Chief Inspector to issue order of closure of a mine or part thereof.---(1) The Chief Inspector or an Inspector, authorized in writing by the Chief Inspector may issue an order of closure of a mine or part thereof, if he has reasons to believe that-

- (a) an owner, agent or mine manager has failed to comply with the provisions of section 28 or it clearly appear to the Chief Inspector that the mine or part thereof is detrimental to the public interest or causing severe damages to property, residential or commercial buildings or immediate threat to lives which is unavoidable;
- (b) the mine or part thereof or adit, level, incline, shaft where mining operations are being carried out over and under without leaving natural pillars of adequate size:

Provided that the Chief Inspector has reason to believe that certain circumstance exist there depending upon the condition of supports applied, geological conditions of formation and the size of natural pillar will not affect safety of the mine, the Chief Inspector or Inspector allows mining operations on such terms and conditions as he may deem necessary for safety of the mines and workers;

- (c) the adits being driven parallel less than 60 feet apart from one another; provided that the Chief Inspector has a reason to believe that the rock is composed of competent strata or formation and free from all kinds of geological defects and there is no apparent danger or threat to lives of workers from fall or collapse of mine or part thereof, the Chief Inspector may allow the operations on such terms and conditions as he may consider necessary;
- (d) the mine or part thereof or adit where mining operations above or below ground approaching near or have approached near or tend to approach near causing or have caused or tend to cause damages to built up area, house, general public facilities, public road, water tank, perennial springs, well, water or gas pipe line, public park, graveyard;
- (e) the surface mine or part thereof where mining operations near the buildup area being carried out without any designed pattern and in reckless manner and causing or have caused or tend to cause damages to public or private property (school, office, hospital, house, shop, store, etc.) or have caused or to cause injury, or fatal accident to humans or animals or defective so to threaten;
- (f) the surface mine or part thereof where mining operations have been or is being resulted in severe public complaints against fly rocks, shock waves and ground vibrations resulted from unplanned, uncontrolled quarry blast and causing or have caused injuries, damages to human, animals or property or developed objectionable cracks in residential or commercial buildings or tend to threaten to the nearby surrounding;
- (g) any underground mine, or part thereof or adit where mining operations are carried out under active and destructive land subsidence resulted from extraction of mineral on large scale through underneath mining and the Chief Inspector or an Inspector has reason to believe that further mining there may result in catastrophe;

- (h) the mine, adit or part thereof where surface of the land above the mine workings has clearly shown fractures, fissures, resulted from underground mining operations and where the underground conditions of the mine seem deteriorated or immediate roof of the mine has fractured as a result of enormous vertical and lateral stresses and safety is highly precarious;
- (i) any mine or quarry where mining operations is or have resulted in dispute between the mine owners or between owner and workers or any other circumstances which may cause danger to lives or interest of owners or workers or both;
- (j) the mine or part thereof where firedamp or coal dust explosion has occurred or a mine where major accident has taken place or a mine or part thereof where spontaneous combustion or fire is active and there is apparent danger to lives and health from solids, noxious, toxic, poisonous and inflammable gases present more than permissible limits in the mine;
- (k) the mine or part thereof contains oxygen, methane (firedamp) or other solids or gases like carbon monoxide (white damp), carbon dioxide (blackdamp), hydrogen, hydrogen sulphide (stink damp), sulfur dioxide, nitrous fumes or air-borne dust exceed the maximum permissible limits;
- (l) extraction of minerals through single entry (adit) having no second outlet but not include exploratory adit where all precautionary measures for safety of mine and workers have been adopted; and
- (m) any mine or part thereof which is not meeting the requirements of the provisions relating to health, safety and environment laid down under this Act and rules or any order made thereunder but also there is apparent and unavoidable danger to safety, lives and health of persons employed in the mine.

(2) If an owner, agent or mine manager is aggrieved by any order issued by an Inspector under sub-section (1) the owner, agent or mine manager may, within thirty days after the communication of the impugned order, lodge an appeal against such order to the Chief Inspector, and the Chief Inspector shall, after he has considered the ground of the appeal and the Inspector's reasons for the issuance of the order, confirm, set aside, or modify the decision.

(3) If the owner, agent or mine manager is aggrieved by any order issued by the Chief Inspector may, within thirty days after the date of the decision of the appeal, send his objection in writing, stating the grounds thereof to Secretary. The decision of the Secretary shall be final and binding on all concerned.

(4) If an owner, agent or mine manager is aggrieved by any order issued by the Chief Inspector either under sub-section (1) or sub-section (2) he may, within thirty days after the communication of the impugned order, lodge an appeal against such order to the Secretary, and the Secretary shall, after he has considered the ground of the appeal and the Chief Inspector's reasons for the decisions, confirm, set aside, or modify the decision. The decision of the Secretary shall be final and binding by all concerned.

31. **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 in connection with mining operations;
- (b) an accidental explosion, ignition, spontaneous heating, outbreak of fire or appearance of smoke 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) a bursting of any equipment containing steam, compressed air or other substance at high pressure; or
- (f) breakage, fracture or failure of any essential part of any machine or apparatus whereby the safety of person may be in danger.
- (g) an over winding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised; or
- (h) an electric shock or burn caused by contact with a conductor carrying more than 25 volts; or
- (i) subsidence or land sliding in the mining area; or
- (j) premature collapse of any part of the working; or
- (k) a rock-burst in working below ground; or
- (l) an instantaneous failure of a pillar, part of a pillar or several pillars of coal in workings below ground; or
- (m) any accident due to explosive; and
- (n) any other accident in mine:

The owner, agent or mine manager shall give notice in writing of the occurrence on the prescribed form to the Chief Inspector 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 other than the Inspector, that authority shall cause the Inspector concerned to make, an inquiry into the occurrence within fifteen days of the receipt of such notice or an information received otherwise.

(3) When an accident causing loss of life or serious bodily injury to any person occurs, the place of accident shall not be disturbed or altered for fifteen 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 it is necessary for securing the safety of the mine or the persons employed therein, subject to the following conditions, namely:

- (a) the decision that it is necessary to disturb the place must be taken by the mine manager;
- (b) the disturbance must not prejudice to subsequent investigation;
- (c) the workers representative must have reasonable opportunity to inspect the place of accident if he wishes;
- (d) an accurate plan has been made and copies thereof made available to the Inspector and the workers representative; and
- (e) everything which is relevant to the accident must be preserved as far as possible, in the condition in which it was at the time of accident.

(4) Wherever there occurs in or about a mine an accident other than those specified in sub-section (1) causing reportable injury to any person, the owner, agent or mine manager shall enter details of such occurrence in the register in the prescribed form and copies of such entries shall be sent by the owner, agent or mine manager within fourteen days after the 30th day of June and the 31st day of December in each year to the Chief Inspector.

32. Notice of occupational diseases.---(1) Where any person employed in a mine contracts or is believed to have contracted any disease, notified by Government in the official Gazette under section 35, as an occupational disease peculiar to any mining operation, the owner, agent or mine manager, as the case may be, shall send notice thereof to the Chief inspector, an Inspector or the Health Inspector having jurisdiction of the area, in such form and within such time as may be prescribed.

(2) The Chief Inspector may direct the Inspector or the health Inspector to investigate into the matter within such time as specified in the order or he may make requisition to the health authorities of the District to provide the services of such medical practitioners and laboratory or X-ray facilities if required on such terms and conditions as he thinks fit to assist the Chief Inspector, an Inspector or the Health Inspector for the purpose of this section within such time as specified in the requisition by the Chief Inspector.

(3) If the Chief Inspector, the Inspector or the Health Inspector has a reason to believe that any employee working in or at the mine has contracted a disease notified under section 35 or a disease contracted as a result of working in or at the mine in risky environment, the Chief Inspector may refer that employee to any Government hospital or to any other reputed medical centre or medical specialist not in the control of Government, for necessary medical check-up and opinion for further investigation and treatment if deem necessary.

33. Report by Inspector or Health Inspector.---If a medical specialist or Health Inspector attends a person who is or has been employed in mine and who is or is believed by the medical specialist or Health Inspector to be suffering from any disease notified under section 35, or disease resulted from working in risky environment or whenever the Inspector suspects that any person medically examined or treated by a medical specialist is suffering from a disease listed under section 35, the Inspector shall without delay forthwith communicate to the Chief Inspector his findings at the examination, and shall on demand by the Chief Inspector furnish such further information at his disposal in regard to the examination or the health of such person as the Chief Inspector may require stating therein-

- (a) the name and address of the patient;
- (b) medical checkup report duly signed and stamped by the physician or Health Inspector who has medically examined the patient;
- (c) the disease from which the patient is or is believed to be suffering; and
- (d) the name and address of the mine, the name and address of the owner, agent or mine manager in which the patient was last employed.

34. Cost of medical examination and treatment.---(1) Where the report submitted under section 33 is confirmed to the satisfaction of the Chief Inspector through certificate issued by medical specialist or Health Inspector that the employee is suffering from a disease notified under section 35, the Chief Inspector shall forward the case with necessary recommendation to the mine owner or to the Commissioner Mines Labour Welfare as the case may be for payment of all expenses incurred by the patient suffering from occupational disease and the cost to keep the employ under observation if advised by the medical practitioner or Health Inspector

(2) The recommendation made by the Chief Inspector under sub-section (1) shall be binding upon the mine owner and the Commissioner Mines Labour Welfare.

(3) The Chief Inspector if so advised by the medical specialist in writing, he may, direct the owner, agent or mine manager to shift for any specified period a person who has contracted an occupational disease or diseases to such working place where there is less or no danger of aggravation of the disease.

35. Occupational diseases notified by Government.--- Government may by notification declare any disease to be occupational diseases including the following, namely:

- (a) asbestosis.
- (b) carcinoma of the lungs;
- (c) carbon monoxide poisoning;
- (d) dermatitis;
- (e) heatstroke;
- (f) loss of hearing acuity;
- (g) nystagmus;
- (h) pneumoconiosis;
- (i) Silicosis;
- (h) tuberculosis;
- (i) tunnel workers Anemia;
- (j) tetanus; and
- (k) any other disease notified from time to time as occupational disease.

36. Medical certificate of fitness.--- The medical practitioner or health Inspector subject to the provisions of this Act and rules made thereunder, shall on application made in the prescribed manner by any employee, owner, agent or mine manager who intends to employ a person to perform risk work in a mine, who is not in possession of a valid certificate of fitness, medically examine that person in a manner as he deems fit and issue to such person a certificate of fitness in

the prescribed form. The owner, agent or mine manager shall provide all kinds of facilities to carry out such medical examination to determine the fitness of the employee on such date, time and place fixed by the Chief Inspector.

37. Renewal of medical certificate of fitness.---(1) Every person who performs work in or about the mine whether above or below ground shall be medically examined at such intervals as may be determined by the Chief Inspector.

(2) No person shall be allowed to enter into a mine for the purpose of work or employment in a mine unless he is in possession of medical fitness certificate issued by the medical practitioner.

38. Power of Secretary to appoint inquiry committee in cases of accidents.---

(1) When any accidental explosion, ignition, outbreak of fire or irruption of water or any other accident has occurred in or about any mine, the Secretary, if he is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a inquiry committee to hold an inquiry, consisting of persons possessing experience and special knowledge of the mining law.

(2) The Committee appointed to hold such enquiry shall have all the powers of a Civil Court under the Civil Procedure Code, 1908 (Act No. 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 Pakistan Penal Code, 1860 (Act No. XL of 1860).

(3) The Committee holding an inquiry under sub-section (1) may exercise such of the powers of an Inspector under this Act as it may think fit or expedient to exercise for the purposes of the inquiry.

(4) The Committee holding an inquiry under sub-section (1) shall make a report to the Secretary stating the causes of the accident and its circumstances and adding any observation which it may think fit to make.

(5) The Committee shall consist of a member as Inspector of Mines from other than the concerned Inspector where the accident has occurred.

39. Publications of reports.---The Secretary may cause any report submitted by the Committee constituted under section 18 and shall cause every report submitted by the Inquiry Committee constituted under section 38 to be published at such time and in such manner as he may think fit.

CHAPTER-VI **HOURS AND LIMITATION OF EMPLOYMENT**

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

41. Hours of work aboveground.--- (1) A person employed above ground in a mine shall not be allowed to work for more than eight hours in any day including rest interval of one hour.

(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 half hours inclusive of overtime, and that he shall not work for more than five hours continuously before he has had an interval for rest of at least half an hour:

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

(3) Persons belonging to two 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.

42. Hours of work 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 including rest interval for one hour:

Provided that subject to the previous approval of the Chief Inspector, the daily hours specified in this sub-section (1) may be exceeded in order to facilitate the charge of relays.

(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 relays 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 periods of work shown in respect of him in the register kept under sub-section (1) of section 53.

43. Special provision for night relays.---Where a person employed in a mine works in a relay which extends beyond mid night-

- (a) for the purpose of section 42, a weekly day of rest shall remain in his case a period of twenty four consecutive hours beginning when his relay ends; and
- (b) the ensuing day for him shall be deemed to be the period of twenty-four consecutive hours beginning at the end of the period of work fixed for the relay, and hours he has worked after midnight shall be counted in the previous day.

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

45. Notice regarding hours of works.---(1) The owner, agent or mine manager of every mine shall cause to be posted on a notice board outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay. The notice shall also state the time of the commencement and of the end of the intervals for rest fixed for persons employed above ground. A copy of each such notice shall be sent to the Chief Inspector, and the Inspector concerned.

(2) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any relay or in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted on the notice board 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 and the Inspector concerned, not less than seven days before such change.

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

46. Employment of women.---(1) No woman shall be employed in any part of a mine which is below ground.

(2) No woman shall be allowed to work in a mine above ground between the hours of 7 PM and 6 AM.

(3) The provisions of sub-sections (1) and (2) shall not apply to women who do not perform manual work and are employed in health services:

Provided that such women shall be allowed an interval of not less than eleven hours between the termination of the employment on any one day and the commencement of the next period of employment.

47. Exemption of persons holding supervisory positions from hours and limitation of employment.---(1) Nothing in sections 41, 42, 44, sub-section (3) of section 45 and section 46 shall apply to persons who may by rules be defined to be persons holding responsible position of managerial or technical character or employed in health services or employed in any confidential capacity.

(2) For the purposes of sub-section (1), the following persons are exempted from restriction on weekly or daily working hours either above ground or below ground working in more than one mine within the proceeding twelve hours, etc. as provided by section 41, 42, 44, 45 and 46, namely:

- (i) Assistant;
- (ii) Managers;
- (iii) Under-Managers;
- (iv) Over-Man;
- (v) Mechanical Engineers;
- (vi) Engine Drivers;
- (vii) Electricians;
- (viii) Electrical Engineers;
- (ix) Driller Incharges;
- (x) Blaster;
- (xi) Surveyors;
- (xii) Inspectors of works;
- (xiii) Clerks;
- (xiv) Overseers;
- (xv) Doctors;
- (xvi) Dispensers;

- (xvii) Health Officers;
- (xviii) Welfare Officers; and
- (xix) Labour Inspectors.

48. Exemption from provisions regarding employment.---(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein or in case of an accident whether actual or apprehended, or in case of any urgent work to be done to machinery, plant, equipment of the mine as a result of breakdown of such machinery, plant or equipment, the mine manager may, subject to the provisions of section 28, permit persons to be employed in contravention of sections 40, 41, 42 and section 44 or sub-section (3) of section 47 on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

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

(2) Every action taken by the mine manager under sub-section (1) shall immediately be recorded by him together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector concerned.

(3) When as a result of grant of an exemption to any mine from the provisions of section 41, 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.

(4) In case of prescribed processes 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 42 or section 43 may, with the prior approval of the Chief Inspector, be raised to not more than sixty hours in any week or ten and a half hours in any day.

(5) In exceptional cases of pressure of work, the Chief Inspector may grant temporary exemption to a mine from the provisions of sections 42, 43 or 44 for a period not exceeding ninety days in any calendar year, within the maximum limits of-

- (a) ten and a half hours of work on any one day; and
- (b) twelve hours of spread over, inclusive of intervals for rest or meal, in any one day.

(6) Subject to the maximum limits specified in sub-section (4), the Secretary may, by order grant permanent exemption, to such extent and subject to such conditions 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.

49. 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 of 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 of 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-

- (a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity;
- (b) any contribution paid by the owner to any pension fund or provident fund;
- (c) any travelling allowance or the value of travelling concession;
- (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (e) 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 Chief Inspector, 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 early as possible equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.

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

50. Prohibition of employment of children.---(1) No child shall be employed in a mine or be allowed to be present in any part of a mine which is above or below ground.

(2) If a child is found in the premises of a mine, he shall until the contrary is proved, be deemed to be working in the mine.

51. Employment of person below eighteen or above sixty years of age.---(1) After commencement of this Act, no person below eighteen or above sixty years of age other than those employed in managerial or supervisory categories shall be allowed to work in any mine or any part thereof either below or above ground, where any operation connected with or accidental to any mining operation is being carried on.

(2) Notwithstanding anything in sub-section (1), apprentices and other trainees who have not completed eighteen years of age may be allowed to work subject to the production of fitness certificate and under proper supervision in a mine or part thereof by mine manager:

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

52. Power to require medical examination.---(1) Where the Chief Inspector, the Inspector or the Health Inspector, as the case may be, is of the opinion that any person employed in a mine otherwise than an apprentice or other trainee is below eighteen years of age, the Chief Inspector, an Inspector or the Health Inspector, as the case may be, may serve on the owner, agent or mine

manager, a notice in writing requiring that such person shall be examined by a qualified medical practitioner or health Inspector and such person shall not, if the Chief Inspector, an Inspector or the Health Inspector so direct, be employed or permitted to work in any mine until he has been so examined and has been certified that he is of eighteen years of age.

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

53. Registration of employees.---(1) For every mine whether above or below ground, there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person-

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

(2) The entries in the register prescribed by sub-section (1) shall be such that employees 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) The employees whose particulars are entered in the register under sub-section (1) shall be deemed to be registered employees.

CHAPTER-VII **LEAVE AND HOLIDAYS WITH WAGES**

54. Annual leave with wages.---(1) Every person who has completed one year of continuous service commencing from the first day of January 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; and
- (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) One year of continuous service referred to in sub-section (1) shall be deemed to have been completed-

- (a) in the case of the person employed below ground in a mine, if he has during the year put in attendance for not less than one hundred and ninety attendance at the mine; and
- (b) in the case of a person employed above ground in a mine, if he has during the year put in attendance for not less than two hundred and forty attendance in the mine.

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

- (a) in the case of a person employed below ground in a mine, he has put in attendance for not less than one half of total number of days during the remainder of the year; and
- (b) in the case of a person employed above ground in a mine, he has put in attendance for not less than two third of the total number of days during the remainder of the year.

(4) If a person employed in a mine does not, in any such period of twelve months, take the 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 mine manager for any reason shall be added to the credit of such person beyond the aforesaid limit.

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

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

- (c) payment of such wages shall be made by the owner at the rate specified in section 57, where the person is discharged or dismissed from service or quits employment or superannuated, before the expiry of the second working day after such discharge, dismissal, quitting of an employment or superannuation, as the case may be, and where the person employed dies while in service, within a period of two months of his death.

Explanation.---For the purpose of sub-section (1) and sub-section (5) any fraction of leave of half a day or more shall be treated as one full day and fraction of less than half a day shall be omitted.

(6) For the purpose of sub-section (1), 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 wages, due to sickness or accident;
- (d) any maternity leave not exceeding twelve weeks;
- (e) any period of lay-off arising due to failure, refusal or inability of any owner on account of shortage of coal, power or raw material or the accumulation of stock or the breakdown of machinery or for any other reason, to give employment to a person whose name is borne in the master rolls of his mine; or
- (f) a strike which is not illegal or a lockout which is legal.

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

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

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

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

(10) If the employment of the person employed in a mine is terminated by the owner, agent or manager of a mine before he has taken the entire leave to which he is entitled up to the day of termination of his employment, or if such person having applied for having not been granted such leave, quits his employment before he has taken the leave, the owner or agent or mine manager shall pay him the amount payable under section 57 in respect of the leave not taken, and such

payment shall be made, where the employment of the person is terminated by the owner, agent or mine manager, before the expiry of second working day after such termination, and where a person himself quits his employment, on or before next pay day.

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

55. Festival holidays.--- Every person employed in a mine shall be allowed, with wages, such festival holidays as are declared by Government to be public holidays.

56. Casual leave and sick leave.--- Every person employed in a mine shall be entitled in a year to twenty five days casual leave on full wages and sixteen days sick leave on 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.

57. 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.

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

59. Mode of recovery of unpaid wages.--- Any sum required to be paid by the owner, agent or mine manager under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Khyber Pakhtunkhwa Payment of Wages Act, 2013 (Khyber Pakhtunkhwa Act No. IX of 2013).

60. Power of Inspectors to act for employee.--- 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, but not paid by an owner, agent or mine manager in accordance with this Chapter.

CHAPTER-VIII **ESTABLISHMENT OF TECHNICAL INSTITUTE** **AND EMPLOYEES TRAINING**

61. Establishment of school of mine.--- Government shall establish a central school of mine for the Province in a specified area of such size and capacity as may be prescribed to produce diploma holders, technical, managerial and supervise grade persons in different disciplines connected with mining field.

62. Establishment of survey institute.--- Government shall establish a central survey institute for the Province in a specified area of such size and capacity as may be prescribed to produce competent surveyors required in different phases of mining.

63. Employees training.---(1) The Secretary may, adopt strategies, arrange program of such form, scale and period as deem necessary to provide initial training on various subjects relating to mine management, mine workings, general safety, occupational safety and health, employment of persons working in the mines.

(2) Owner, agent or mine manager of every mine shall afford all reasonable facilities to the trainers and trainees at place of training and shall ensure the availability of such number of workers as determined and required to be trained in the proposed training program at sites as well as at rescue station.

(3) All the trainees (mine workers) may be paid stipend by the Commissioner Mines Labour Welfare at the rate as may be prescribed.

64. Training expenses.---The Finance Department shall, allocate sufficient amount in the annual budget and the amount so allocated shall be paid as stipend to the trainers and training related activities in manner as may be prescribed.

CHAPTER-IX **RULES**

65. Powers of Government to make rules.---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 prescribing the duties and powers of the Chief Inspector, Inspectors, Surveyor and mine Guards with regard to inspection, supervision of mines under this Act;
- (b) for prescribing the duties of owners, agents and mine managers and of persons acting under them;
- (c) for prescribing the qualifications of mine managers and of persons acting under them;
- (d) for prescribing the manner of ascertaining by examination or otherwise, the qualifications of mine managers and persons acting under them, and the granting and renewal of the certificates of competency and certificate of medical fitness;
- (e) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (f) for prescribing the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single mine manager, or for any mine or mines to be under a mine manager not having the prescribed qualifications;
- (g) for providing for the making of inquiries into charges of misconduct or incompetency on the part of mine managers and persons acting under them and for the suspension and cancellation of certificates of competency;
- (h) for providing for the appointment in mines wherein two hundred and fifty or more persons are ordinarily employed of such number of safety officers, as may be specified, and for prescribing the qualifications and the duties to be performed by such officers;

- (i) for regulating, subject to the provisions of the Explosives Act, 2013 and of any rules made thereunder, the storage, handling and use of explosives in mines;
- (j) for regulating, subject to the provisions to the Electricity Act, 1910 (IX of 1910) and the rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and use of all electrical apparatus and electrical cables in mines;
- (k) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;
- (l) providing for and regulating the training of persons before they are employed in mines and also during the period of employment at such intervals as may be prescribed;
- (m) providing for and regulating the medical examination of the person before they are employed in mines and also during the period of employment at such intervals as may be prescribed;
- (n) 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 or outlets, pathways and subsidence;
- (o) providing for the grant and validity of medical fitness certificate and for fixing the fees, if any, to be paid in respect of medical examination and of the grant and renewal of such fitness certificates;
- (p) prescribing the method of medical examination of person employed in the mine;
- (q) providing for occupational safety and health in underground and surface mines;
- (r) for providing for prohibiting the employment in a mine either as mine 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 mine manager;
- (s) for providing for the safety of the roads and working place in mines, including the sitting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
- (t) prescribing the size of travelling roads in a mine, through which load is carried by human agency and limit of load and the distance to which it is carried;
- (u) providing for and regulating the inspection of workings, disused working and sealed off fire areas in mines and for the restriction of working in a mine under or in the vicinity of goaves or the sea or any lake or river or any other body of surface water, whether natural or artificial, or of any public roads, or buildings;
- (v) providing for and regulating the ventilation of mines and the action to be taken in respect of ionizing radiations, radioactive, gases and dust, fire and inflammable and noxious gases;

- (w) providing for the care and use, of all machinery, plant, electricity, equipment and material in mines;
- (x) providing for the safety of persons present on haulage roads in mines and for prohibiting, restricting or regulating the use of certain classes of locomotive underground;
- (y) providing for adequate and suitable lighting in 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;
- (z) prescribing personal protective equipments and clothing and breathing apparatus for all persons or classes of persons employed in the mines or classes of mines and requiring and regulating the use of such protective equipments, clothing and apparatus;
- (aa) for providing for against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom, and for prohibiting restricting or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines;
- (bb) prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of minerals output, persons employed and other matters provided for by rules, to be furnished by owners, agents or mine managers, 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;
- (cc) prescribing the form of, the authorities to whom, and the time within which, the notice required by sub-section (1) of section 32 shall be sent by the owner, agent or mine manager, and the fees to be paid to the medical practitioners under section 34;
- (dd) prescribing the plans to be kept by owners, agents or mine managers and the manner and places in which such plans are to be kept for purposes of record;
- (ee) prescribing the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;
- (ff) prescribing the form of and the particulars to be contained in the notice to be given by the owner, agent or mine manager under section 19; and
- (gg) prescribing the notice to be given by the owner, agent or mine manager before mining operations are commenced at or extended to any point within three hundred meters of any railway subject to the provisions of Railways Act, 1890 (IX of 1890) or of any public work or classes of public works which Government may, by general or special order, specify in this behalf.
- (hh) providing for the appointment of chairman and members of Mining Board, and for regulating the procedure of such Board;

- (ii) prescribing the form of the register referred to in sub-section (4) of section 31;
- (jj) for regulating the procedure and conducting different types of competency examination;
- (kk) prescribing the method of registration of mines and quarries with the registrar;
- (ll) for requiring facilities and security of service to be provided to mine managers and other persons acting under them for enabling them to efficiently discharge their duties;
- (mm) providing for the appointment of inquiry committee under section 38, for regulating the procedure and powers of such committees, for the payment of travelling allowance to the members and for the recovery of the expenses of such committees from the mine manager, owner or agent of the mine concerned;
- (nn) 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 particular reference to the number of women ordinarily employed in the mine, the number and standards of such rooms, and the nature and extent of the supervision to be provided therein;
- (oo) for requiring for the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar, and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the number of men and women ordinarily employed in a mine, the number and standards of such places and rooms;
- (pp) prescribing the standard in respect of construction, accommodation, furniture and other equipment of the canteens, the food stuffs to be served therein and the charges which may be made therefore and the representation of the persons employed in the mines in the management of such canteens;
- (qq) 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 standard 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;
- (rr) prescribing the forms of notices required under section 45, and for requiring such notices to be posted also in specified vernaculars;
- (ss) for defining the persons who shall, for the purpose of section 47, be deemed to be persons holding positions of supervision or management or employed in confidential capacity;
- (tt) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their eighteen years, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

- (uu) prescribing the form of registers required by section 53;
- (vv) to fix the time rates for persons employed on piece-rated basis and for requiring the maintenance of payment registers for overtime work and prescribing the form thereof;
- (ww) prescribing the forms in which record of applications for leave, the grant or refusal thereof and the payment of wages during leave and holidays with wages is to be kept;
- (xx) prescribing abstracts of this Act and rules and the vernacular in which the abstracts shall be posted as required by section 70;
- (yy) requiring the fencing of any mine or part of a mine whether the same is being worked or not, where such fencing is necessary for the protection of the public;
- (zz) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in Government or any local authority of Pakistan Railways as defined in the Railways Act, 1890 (IX of 1890);
- (aaa) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents, and mine managers, and for prescribing the forms of such notices, returns and reports; the person 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; and
- (bbb) generally to provide for any matter not provided for by this Act or the rules made thereunder and provisions for which is required in order to give effect to this Act;
- (ccc) requires the maintenance of registers and records for the purposes of this Act and prescribe the form thereof;
- (ddd) prescribe the form of the notices referred to in section 72 and section 74 and require the owner, agent or mine manager to supply copies thereof to women workers;
- (cee) regulate the examination of women referred to in section 72, and the grant of certificates therein referred to;
- (fff) prescribe the nature of the method of furnishing the proof referred to in section 74, section 75 and section 76;
- (ggg) regulate the manner of applying for and paying maternity benefit; and
- (hhh) for prescribing the method of payment of stipend/training expenses.

66. Powers of Government to make rules for establishment of rescue stations.--- Government may, by notification in the official Gazette, make rules under this section for the following purposes, namely:

- (a) requiring establishment of central rescue station and substations 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 station and sub-stations, and regulating the constitution, powers and functions of, and conduct of business by the authorities which shall include representatives of the owners of mines and persons employed in the mines or group of mines concerned;
- (c) prescribing the position, equipment, control, maintenance and functions of central rescue stations or sub-stations;
- (d) providing for the formation, training, composition and duties of rescue crew or brigades; and
- (e) providing generally for to regulate the affair of the rescue station and conduct of rescue work in mines.

67. Powers of Government to make rules for establishment of school of mine and survey institutes.--- Government may, by notification in the official Gazette, make rules under this section for the following purposes, namely:

- (a) requiring establishment of school of mine and survey institutes and to prescribe that how and by whom such stations shall be established;
- (b) providing for the regulating and management of school of mining and survey institute;
- (c) for prescribing the qualifications and experience of persons for appointment as principal, lecturers, instructors and staff to be employed in the school or institute;
- (d) for requiring facilities and security of service to be provided to the staff of school and institute enabling them to efficiently discharge their duties;
- (e) for prescribing service rules of the employees;
- (f) for development of curriculum, syllabus of different disciplines to be taught in the school and institute;
- (g) prescribing the qualification, age and domicile of the candidate to be admitted;
- (h) for regulating the manner of conducting examination, fees in respect of examination, grant of certificate or diploma etc;
- (i) for fixing the fees, if any, to be paid in respect of admission, tuition and hostel; and
- (j) for determining the duration and mode of theoretical and practical studies in the school or institute.

68. Prior publication of rules.---(1) The power to make rules conferred by sections 65, 66 and 67 is subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 22 of the West Pakistan General Clauses Act 1956 (VI of 1956), within which a draft of rules proposed to be made shall be taken under consideration, shall not be less than three months from the date on which the draft of the proposed rules is published for general information.

(3) Before the draft of any rules is published under this section it shall be referred to the Mining Board constituted under section 12 which is in the opinion of the Government concerned with the subject dealt with by the rules and the rules shall not be so published until the Board has had a reasonable opportunity of reporting as to the expediency 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 the Mining Board constituted under section 12 affected by the rule, and unless the Board has had a reasonable opportunity of operating as to the expediency of making the same and as to the suitability of its provisions.

(5) Rules shall be published in the official Gazette and, on such publication, shall have affected as such.

(6) The provisions of sub-sections (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (e) or clause (f) of section 65 are made.

69. Power to make rules without previous publication.--- Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 68, rules under clause (j) and clauses (o) to (ff) of section 65 may be made without previous publication and without previous reference to the Mining Board, if 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 rules to dispense with the delay that would result from such publication and reference:

Provided that any rules so made shall not remain in force for more than two years from the making thereof.

70. Posting up of extracts from Act, Rules, etc.--- There shall be kept posted up or near every mine and quarry in English and in Urdu or in vernacular language, the prescribed abstracts of the Act and rules in manner the as may be prescribed.

CHAPTER-X **MINES MATERNITY BENEFITS**

71. Prohibition of employment of, and work by women during certain periods.---(1) No owner or mine manager shall knowingly employ a woman or no woman shall engage herself in employment in any mine during six months following the day on which she has delivered of a child.

- (2) No owner or mine manager shall employ any woman in a mine-
- (a) if has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks;
 - (b) if she has to the knowledge of the management been delivered of a child within preceding twenty-six weeks;

- (c) during the period of ten weeks following the twenty-six weeks referred to in clause (b);
- (d) for more than four hours in a day unless a crèche is provided at the mine; and
- (e) in any case, for more than four hours at any one time:

Provided that where the woman informs the management that the child of which she was delivered has died, the provisions of clause (c) shall not apply after the management has with due diligence verified the correctness of her statement.

72. Right to obtain leave of absence in pregnancy and after delivery.---(1) If any women employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the mine manager that she expects to be delivered of a child within one and half month from the date of such notice, the mine manager shall permit her if she desires to absent herself from work to the day of her delivery and such absence shall be treated as a period of authorized absence on leave:

Provided that except in the case of a women employed below ground in the mine, the mine manager may, on undertaking to defray the cost of such examination, require the women to be examined by a qualified medical practitioner and, if the women refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within one and a half months, he may refuse such permission.

(2) If any women employed below ground in a mine gives notice either orally or in writing in the prescribed form to the mine manager that she expects to be delivered of a child within ten weeks from the date of such notice, the mine manager may, on undertaking to defray the cost of such examination require the women to be examined within three days by a qualified medical practitioner, shall permit her if she so desires to absent herself from work in any capacity in the mine prior to the said examination, and unless he obtains a certificate that the women is not pregnant or not likely to be delivered of a child within ten weeks or the women refuses to submit such examination, up to the day of her delivery, such absence shall treated as a period of authorized absence on leave.

(3) The examination referred to in the proviso to sub-section (1) or in sub-section (2) shall, if the women so desires, be carried out by a women.

(4) The absence of women in the period during which she is entitled to maternity benefit under this Act shall be treated as authorized absence on leave.

73. Right to and liability for payment of maternity benefit.---(1) Every women, other than a women to whom the provisions of sub-section (2) of section 72 apply, employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act, be entitled to receive and the owner of the mine shall be liable to pay her actual expenses incurred on delivery of child on the production of bill verified by qualified medical female practitioner.

Provided that a woman giving notice under section 74 may therein nominate a person for the purpose of sub-section (2) of section 78.

74. Notice of delivery to be given to mine manager.--- A women entitled to maternity benefit under this unless she has given the notice referred to in sub-section (1) sub-section (2), as the case may be, of section 72, shall on being delivered of a child give notice of her delivery in the prescribed manner to the mine manager before the expiry of seven days from the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the mine manager both of her delivery and of the date of her delivery:

Provided that a women giving notice under section 72 may therein nominate a person for the purpose of sub-section (2) of section 76.

75. Payment of maternity benefit.--- (1) Where a women entitled to maternity benefit has given the notice referred to in sub-section (1) of section 72 and has obtained permission to absent herself from work up to the date of her delivery, the mine manager shall either at once or within three days pay to her maternity benefit for six weeks in advance.

(2) Where a women entitled to maternity benefit has given the notice referred to in sub-section (2) of section 72, the mine manager shall within three days pay to her maternity benefit for ten weeks in advance, unless, within the said three days as a result of the examination referred to in that sub-section, he obtains a certificate that she is not pregnant or not likely to be delivered of a child within ten weeks or the women refuses to submit to such examination.

(3) A women entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 74-

- (a) if she has received an advance payment under sub-section (1) or sub-section 2 be paid the balance of the maternity benefit due to her at the end of the sixth week from the date of her delivery or within three days of the furnishing of proof, whichever date is later; and
- (b) if she has received no such advance payment-
 - (i) if the proof is furnished, before the end of the sixth week from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said sixth week; and
 - (ii) if the proof is furnished after the end of the sixth week from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her.

76. Disposal of maternity benefit in case of death of women entitled to receive it.--- (1) If a women, entitled to maternity benefit, has received an advance under sub-section (1) of section 75 dies before being delivered of the child, the advance shall not be recoverable.

(2) If a women entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or, where an advance under sub-section (1) of section 75 has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death shall, on the prescribed proof of the birth of the child and of the death and date of the death of the women being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person nominated by her under the proviso to section 74 or if she has made no such nomination to the legal representative of the deceased women.

77. Prohibition of dismissal or on account of absence from work owing to confinement.---

(1) When a women absents herself from work in accordance with sub-section (1) of section 71 or in circumstances under which in accordance with this Act the absence is to be treated as authorized absence on leave, shall be unlawful for the mine manager to dismiss her during or on account of such absence or to give notice of dismissal on such a day the notice shall expire during such absence.

(2) The dismissal of a women at any time within six months before she is delivered of a child, if the women but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

78. Power of Chief Inspector or Inspector to direct payments to be made.--- (1) Any women claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 76 is improperly withheld may make a complaint to the Chief Inspector or any Inspector.

(2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief Inspector or Inspector may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his order.

CHAPTER-XI
PENALTIES AND PROCEDURE

79. Obstruction.---(1) Whoever obstructs or hinder, opposes or unduly influence the Chief Inspector, an Inspector or the health Inspector or any person authorized under section 8 in the discharge of his duties under this Act, or refuses or willfully neglects to afford the Chief Inspector, an Inspector or the health Inspector or any person authorized any reasonable facility for making entry, inspection, safety and health examination, measuring, surveying, taking sample, checking instruments, safety appliances, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred thousand rupees or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector, an Inspector or the health Inspector any registers, underground or surface mine plans or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act shall be punishable with fine which may extend to three hundred thousand rupees.

80. Falsification of records, etc.---Whoever-

- (a) counterfeits, or knowingly makes a false statement in, any certificates, or any official copy of certificates, 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 six months, or with fine which may extend to three hundred thousand rupees or with both.

81. Omission to furnish plans, etc.--- If an owner, agent or mine manager, or any person authorized by the owner in writing fails to furnish in the prescribed form or manner or at or within the prescribed time any underground or surface plan, section, return, notice, register, record, registration of mines or report required under this Act to be made or furnished shall be punishable with fine by the Chief Inspector which may extend to two hundred thousand rupees.

82. Contravention of provisions regarding employment of persons.--- Whoever save as permitted by section 48 contravenes any provision of this Act or of any rule or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred thousand rupee or with both.

83. Penalty for employment of persons below eighteen or above sixty years of age.---If a person above sixty or below eighteen years of age is employed in a mine in contravention of section 51, the owner, agent or mine manager of such mine shall be punishable with fine by the Chief Inspector which may extend to two hundred thousand rupees. In case of persistent violation, the mining operations of the owner shall be suspended by the Chief Inspector or the Inspector authorized in writing by the Chief Inspector till compliance of the order of the Chief Inspector.

84. Failure to appoint mine manager.---Whoever in contravention of the provision of section 20, fails to appoint a mine manager, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred thousand rupees or with both.

85. Failure to appoint competent persons.--- Whoever in contravention of the provision of section 22, fails to appoint competent persons shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three hundred thousand rupees or with both. In case of persistent violation, the mining operations of the owner shall be suspended by the Chief Inspector or the Inspector authorized in writing by the Chief Inspector till the appointment of competent person.

86. Failure to register mines.--- Whoever in contravention of the provision of sections 109, fails to register mine in a manner as may be prescribed shall be punishable with a fine by the Chief Inspector which may extend to one hundred thousand rupees. In case of persistent violation, mining operations of the owner shall be suspended by the Chief Inspector till registration of the mine.

87. Notice of accidents.---(1) Whoever, in contravention of the provisions of sub-section (1) of section 31, 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 five hundred thousand rupees or if, the occurrence results in loss of life, shall be punishable with fine which may extend to ten hundred thousand rupees.

(2) Whoever in contravention of a direction made by the Chief Inspector or an Inspector under sub-section (4) of section 31 fails to make entry in the prescribed register shall be punishable with fine which may extend to one hundred thousand rupees.

88. Notice of occupational diseases.--- Whoever, in contravention of the provision of section 32 fails to give notice of any occupational disease shall, if the disease results in serious illness of workers be punishable with a fine which may extend to five hundred thousand rupees or if the disease results in death of the worker, shall be punishable with a fine which may extend ten hundred thousand rupees.

89. Failure to post up extracts from Act, rules etc.---Whoever in contravention of section 70, fails to post up a copy of the prescribed abstracts of the Act, rules made thereunder or a copy of the prescribed notice, shall be punishable with a fine by the Chief Inspector which may extend to one hundred thousand rupees.

90. Failure to provide personal protective equipments.--- If an owner, agent or mine manager failed to provide personal protective equipments (safety helmets, boots, gloves, goggles, dust masks etc.) to the persons engaged in mining operations, he shall be punishable with a fine by the Chief Inspector which may extend to one hundred thousand rupees.

91. Disobedience of orders.--- Whoever contravenes any provision or any order issued under any provisions of this Act or of any rule made thereunder or willfully interferes with or misuses any appliance, convenience or other things to be provided or kept in a mine for the purpose of securing the health and safety of person employed therein or willfully and without reasonable cause do anything likely to endanger himself or others or willfully neglect to make use of any appliance or thing provided in the mine for the purpose of securing of the health or the safety of the person employed therein for the contravention of which no penalty is hereinbefore provided, shall be punishable with fine which may extend to five hundred thousand rupees:

Provided that, in case of a continuous contraventions, further fines of one thousand rupees shall be imposed for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction, and, if such contravention continues beyond a period of one year after the date of conviction or contravention, the offender shall be punishable with imprisonment for a term which may extend one years or with a fine which may extend to ten hundred thousand rupees or with both.

92. Contravention of law with dangerous results.---(1) Whoever contravenes any provision of this Act or of any rule or of any order made thereunder, shall be punishable-

- (a) if such contravention results in loss of life, with imprisonment which may extend to five years, or with fine which may extend to equal to the amount of Diyat as notified by the Federal Government from time to time.
- (b) if such contravention results in serious bodily injury, with imprisonment which may extend to three years, or with fine which may extend to five hundred thousand rupees or with both; and
- (c) if such contravention otherwise causes injury, or danger to persons employed in a mine or other persons in or about the mine with imprisonment which may extend to one year, or with fine which may extend to three hundred thousand rupees or with both.

(2) Where a person having been convicted under this section, is again convicted thereunder, he shall be punishable with the double punishment provided by sub-section (1).

93. Penalty for contravention of Act by a woman.--- Any women who does any work for which she receives payment in cash after she has been permitted under sub-section (1) of section 72 to absent herself from work, or who engages in employment in any mine in contravention of sub-section (1) of section 71 shall be punishable with fine by the Chief Inspector which may extend to fifty thousand rupees, and if she is entitled to maternity benefit under this Act, shall forfeit her right to any maternity benefit not already paid to her.

94. Penalty for contravention by owner, agent or mine manager.---(1) Any owner, agent or mine manager, who contravenes section 73, shall be punishable with a fine which may extend to one hundred thousand rupees.

(2) The court imposing the fine may, if the contravention has resulted in depriving a women of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the women for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and the appellate court in exercise of its power of revision may also make such order.

95. Imposition of fine through Challan.---(1) Where any person, in the opinion of the Chief Inspector or an Inspector authorized by him in this behalf, is contravening any of the provisions of this Act under which he is empowered to impose fine under section 81, 83, 86, 89, 90 and 93 of this Act, he shall charge the accused by issuing a *Challan* in the form specified in the **Schedule** for payment of fine.

(2) The *Challan* shall be issued in quadruplicate by delivering three copies to the accused after obtaining his signatures or thumb impression on the fourth copy to be retained by the Chief Inspector or the Inspector, as the case may be, for record.

(3) The person to whom a *Challan* has been issued under this section may either contest the imposition of fine in the court within ten days from the date of the issuance of the ticket or deposit the fine within that period and provide the original copy of paid *Challan* to the Chief Inspector or as the case may be, the Inspector authorized by him as a proof of payment.

96. Procedure for default in deposit of fine.---(1) If an owner, agent and mine manager remained defaulter in payment of fine imposed by the Chief Inspector or Inspector, authorized in writing by the Chief Inspector, within the specified period, the same shall be referred to the court by the Chief Inspector for recovery.

(2) The Chief Inspector while sending the *Challans* to the court for recovery may also by order in writing suspend or close the mining operations of the defaulter till realization of the fine imposed by the Chief Inspector or an Inspector authorized in this behalf.

(3) The court may, on the application of the accused and for reasons to be recorded in writing, restore the mining operations closed or suspended under sub-section 2.

(4) The Chief Inspector or an Inspector authorized by him in this behalf shall, on monthly basis, provide a scroll of all unpaid *Challans* to the court having jurisdiction in the cases.

(5) The court receiving the scroll shall issue summons to the accused forthwith stating date of appearance.

(6) Where on the first date of hearing, the accused appears before the court and produces proof of deposit of fine, or unconditionally admitting his failure, deposits the fine forthwith along with the penalty which shall not be less than ten percent and not more than twenty five percent of the amount of fine as determined by the court, further proceedings against the accused may be dispensed with and no conviction shall be recorded against him.

(7) Upon failure of the accused to appear before the court in response to the summons, the court shall forthwith issue warrants for arrest of the accused.

(8) The court shall recover the fine under this section in accordance to the procedure as given in the Code of Criminal Procedure, 1898 (Act V of 1898) relating to the procedure for default in payment of fine.

(9) The fines recovered by the court under this section shall be deposited in the Treasury under relevant Head of Receipts.

97. Special provision regarding fine.--- Notwithstanding anything contained in section 32 of the Code of Criminal Procedure 1898, it shall be lawful for a Magistrate of the First Class to pass sentence of fine exceeding ten thousand rupees authorized by this Act on any person convicted of the offence thereunder.

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

Provided that the Chief Inspector or an Inspector authorized in this behalf by general or special order in writing by the Chief Inspector, shall before instituting such prosecution, satisfy himself that the owner, agent or mine manager had failed to exercise all due diligence to prevent the commission of such offence:

Provided further that in respect of any offence committed in the course of technical direction and management of a mine, no authority or person shall institute prosecution against any owner, agent or mine manager without the previous approval in writing of the Chief Inspector.

99. Burden of proof in certain cases.--- Where any person is prosecuted, or proceeded against, for contravening any of the provisions of this Act or of any rule, or any order made thereunder, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable, or, as the case may be, all practicable measures were taken to satisfy the safety requirements, duty or other requirements, as the case may be.

100. Delegation of powers to Inspectors.---(1) The powers exercised by the Chief Inspector under sections 81, 83, 86, 89, 90 and 97, may be delegated by him in writing to the Inspectors.

(2) The powers delegated under sub-section (1) may be withdrawn by the Chief Inspector at any time.

(3) If any person is aggrieved by an order of an Inspector in exercise of the powers delegated under sub-section (1), he may within fifteen days after the communication of such order prefer in appeal against such order to the Chief Inspector:

Provided that the decision of Chief Inspector in such appeal shall be final.

101. Cognizance of offences.--- No Court inferior to that of Magistrate of the First Class shall take cognizance any offence under this Act except on a complaint made in writing by the Chief Inspector or an Inspector authorized in this behalf by the Chief Inspector.

102. Power of the Court.---(1) Where the owner, agent or mine manager is convicted of an offence punishable under this Act, the Court may, in addition to awarding him any punishment, by order in writing, require him when a period specified in the order which may be extended by the Court from time to time on application made in this behalf subject to the condition that the Chief Inspector or an Inspector, authorized in this behalf, has no objection to the extension of time required, to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

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

103. Continuance of liability.--- Nothing contained in this Act shall absolve any person from the liability under this Act, if such person had or has ultimate control over the affairs of the business of the mines.

104. Reference to Mining Board or Committee in lieu of prosecution in certain cases.---(1) If the Court trying any case instituted at the instance of the Chief Inspector, or an Inspector under this Act, is of the opinion that the case is one which should in lieu of a prosecution, be referred to the Mining Board constituted under section 12 or to the Committee constituted under section 18, it may stay the criminal proceedings and report the matter to the Secretary with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Secretary may refer the case to the Mining Board or to the Committee, as the case may be, or may request the Court to proceed with the trial.

CHAPTER-XII MISCELLANEOUS

105. Decision of question whether a mine is under this Act.--- If any question arises as to whether any excavation or working in a mine is within the meaning of this Act, the Mining Board may decide the question and in this regard a certificate signed by the Chairman of the Mining Board shall be conclusive on the point.

106. Power to alter or rescind orders.---(1) The Chief Inspector may, for reasons to be recorded in writing, reverse or modify any order passed by him or an Inspector duly authorized by him under this Act.

(2) No order prejudicial to the owner, agent or mine manager shall be made under this section unless such owner, agent or mine manager has been given a reasonable opportunity of being heard in person or through authorized representative.

107. Application of the Act.--- This Act shall apply to all coal and metalliferous mines in the province, whether above or below ground within the leased areas granted under the Mineral Sector Governance Act 2017.

108. Signing of returns, notices etc.--- All returns and notices required to be furnished or given by or on behalf of an owner of the mine in connection with the provisions of this Act or any rule or any order made thereunder shall be signed by the owner, agent or mine manager.

109. Registration of Mines.--- The owner or amine manager of every mine shall register the mine with the registrar in the manner as may be prescribed.

110. Indemnity.--- No suit, prosecution or other legal proceedings whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

111. Removal of difficulties.--- If any difficulty arises, in giving effect to any provision of this Act, Government may, by notification, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

112. Repeal and savings.---(1) The Mines Act, 1923 (Act No. IV of 1923) and the Mines Maternity Benefit Act, 1941 (Act No. XIX of 1941) are hereby repealed in their application to the extent of the Province of the Khyber Pakhtunkhwa.

(2) Notwithstanding the aforesaid repeal, anything done, action taken rules, or orders made under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act and shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

SCHEDULE-I
(see sub-section (1) of section 95)

FORM OF CHALLAN

Name & address of the offender.....
.....
Date & details of offence.....
.....
Violation of the provision of law.....
.....
Amount of *Challan* Rs.....
Date by which the penalty is to be paid
.....
Head of account.....
.....

Seal and Signature of

The Chief Inspector of Mines/Inspector of Mines
(authorized by Chief Inspector)

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa