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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

Islamabad, the 29th June, 1973

The following Acts of the National Assembly received the assent of the President on the 27th June, 1973, and are hereby published for general information :—

ACT No. XLV OF 1973

An Act further to amend the Mines Act, 1923

WHEREAS it is expedient further to amend the Mines Act, 1923 (*IV of 1923*), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Mines (Amendment) Act, 1973.

(2) It shall come into force at once.

2. **Amendment of section 3, Act IV of 1923.**—In the Mines Act, 1923 (*IV of 1923*), hereinafter referred to as the said Act, in section 3,—

- (a) in clause (jj), after the word “‘relay’”, the words “and the period for which it works is called a ‘shift’” shall be added ; and
- (b) in clause (k), for the word “limb” twice occurring the words “part of the body” shall be substituted.

3. **Amendment of section 6, Act IV of 1923.**—In the said Act, in section 6,—

- (a) in clause (b), the words and comma “at any reasonable time by day or night but not so as unreasonably to impede or obstruct the working of the mine” shall be omitted ; and

- (b) in clause (c), after the word "safety", the comma and words "health and welfare" shall be inserted and for the full stop at the end a semi-colon shall be substituted and thereafter the following new clauses (d), (e) and (f) shall be added, namely :—

"(d) 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 section to answer or give any evidence tending to criminate himself ;

(e) require the production of any books, registers or other documents, the keeping of which is prescribed, in order to see that they are in conformity with the provisions of this Act and rules and regulations framed thereunder and take into his custody, or make copies of, or extracts from, any such book, register or other document ;

(f) after informing the manager of a mine or his representative, take or remove, for the purpose of analysis, samples of materials and substances used or handled in the mine."

4. **Amendment of section 7, Act IV of 1923.**—In the said Act, in section 7, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

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

5. **Amendment of section 9, Act IV of 1923.**—In the said Act, in section 9, in sub-section (1), after the word "Magistrate", the words, commas, figures and brackets "or a Commissioner for Workmen's Compensation appointed under the Workmen's Compensation Act, 1923 (*VIII of 1923*)," shall be inserted.

6. **Insertion of section 9A, Act IV of 1923.**—In the said Act, after section 9 amended as aforesaid, the following new section 9A shall be inserted, namely :—

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

7. **Substitution of section 14, Act IV of 1923.**—In the said Act, for section 14 the following shall be substituted, namely :—

"14. *Notice before commencement of mining operations.*—(1) The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of the Mines (Amendment) Ordinance, 1973, or in the case of proposed mining operations, not less than fifteen days before the commencement of

such operations, give to the Chief Inspector and the District Magistrate of the district in which the mine is situated or the operations will commence notice in writing in such form and containing such particulars as may be prescribed.

- (2) If the proposed operations in respect of which notice is given under sub-section (1) are not commenced within sixty days from the date on which the notice was given, the said notice shall be deemed to have expired and no operations shall commence except after a notice has been given in accordance with that sub-section."

8. **Insertion of sections 17A and 17B, Act IV of 1923.**—In the said Act, after section 17, the following new sections 17A and 17B shall be inserted, namely :—

"17A. *Canteens.*—At every mine wherein more than one hundred persons are ordinarily employed, a canteen of such standard as may be prescribed shall be provided for the use of persons employed therein.

17B. *Shelters.*—There shall be provided and maintained for use of persons working above ground in a mine, during intervals for rest, shelters of such standard and on such scale as may be prescribed."

9. **Amendment of section 18, Act IV of 1923.**—In the said Act, in section 18, the words and commas " in respect of which the appropriate Government may, by notification in the official Gazette, declare this section to apply," shall be omitted.

10. **Insertion of section 18A, Act IV of 1923.**—In the said Act, after section 18 amended as aforesaid, the following new section 18A shall be inserted, namely :—

"18A. *First-aid rooms.*—At every mine in respect of which the appropriate Government may, by notification in the official Gazette, declare this section to apply, there shall be provided first-aid rooms of such size, with such equipment and in charge of such medical and nursing staff as may be prescribed."

11. **Amendment of section 19, Act IV of 1923.**—In the said Act, in section 19,—

- (a) in sub-section (1), after the word "life" the comma and word ", health" shall be inserted ;
- (b) in sub-section (1A), after the word "fire" twice occurring, the words "or flooding" shall be inserted ; and
- (c) in sub-section (2), after the word "life", the comma and word ", health" shall be inserted.

12. **Amendment of section 20, Act IV of 1923.**—In the said Act, in section 20, for sub-section (1) the following shall be substituted, namely :—

"(1) Whenever there occurs in or about a mine—

- (a) an accident causing loss of life or serious bodily injury, or
- (b) an accidental explosion, ignition, spontaneous heating, outbreak of fire or eruption or inrush of water or other liquid matter, or

- (c) an influx of inflammable or noxious gases, or
- (d) a breakage of ropes, chains or other gear, by which persons or materials are lowered or raised in a shaft or an incline, or
- (e) an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised, or
- (f) an electric shock or burn caused by contact with a conductor carrying more than 25 volts, or
- (g) any other accident that may be prescribed,

the owner, agent or manager of the mine shall give notice of the occurrence to such authorities, in such form and within such time as may be prescribed.

- (IA) Where a notice given under sub-section (1) relates to an accident causing loss of life, the Inspector shall make, or, where the authority receiving the notice is one other than the Inspector, that authority shall cause the Inspector to make, an inquiry into the occurrence as early as possible on receipt of such notice or on information received otherwise.
- (IB) When an accident causing loss of life occurs, the place of the accident shall not be disturbed or tampered with for three clear days from the date of such accident unless the Inspector has earlier inspected it or given intimation that it is not proposed to make an inquiry :

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

- (a) the decision that it is necessary to disturb the place must be taken by the manager ;
- (b) the disturbance must not prejudice subsequent investigation ;
- (c) the workers' representative must have reasonable opportunity to inspect the place if he wishes ;
- (d) an accurate plan must be made, and copies thereof made available to the Inspector and the 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 the accident."

13. **Insertion of section 20A, Act IV of 1923.**—In the said Act, after section 20 amended as aforesaid, the following new section 20A shall be inserted, namely :—

"20A. *Notice of occupational diseases.*—(1) Where any person employed in a mine contracts or is believed to have contracted any disease notified by the appropriate Government in the official Gazette as an occupational disease peculiar to any mining operation, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

- (2) The appropriate Government may, by order, appoint such qualified medical practitioners on such terms and conditions as it thinks fit to be certifying doctors for the purpose of this section within such local limits as it may specify in the order.
- (3) If the Chief Inspector or an Inspector has reason to believe that any person working in a mine has contracted a disease notified under sub-section (1), he may refer that person to the certifying doctor for his opinion.
- (4) If any qualified medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (1), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating—
 - (a) the name and address of the patient ;
 - (b) the disease from which the patient is or is believed to be suffering ; and
 - (c) the name and address of the mine in which the patient is or was last employed.
- (5) Where the report under sub-section (4) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying doctor that the person is suffering from a disease notified under sub-section (1), the Chief Inspector shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.
- (6) The Chief Inspector or an Inspector, if so advised by the certifying doctor, may direct the owner, agent or manager of the mine to shift for any specified period a person who has contracted an occupational disease to such working place where there is less or no danger of aggravation of the disease.

14. **Amendment of section 22B, Act IV of 1923.**—In the said Act, in section 22B,—

- (a) in sub-section (1), for the word "fifty-four" the word "forty-eight" and for the word "ten" the word "eight" shall be substituted ; and
- (b) in sub-section (2), for the word "twelve" the words "ten and a half", for the word "six" the word "five" and for the word "one" the words "half an" shall be substituted.

15. **Amendment of section 22C, Act IV of 1923.**—In the said Act, in section 22C, for the word "nine", wherever occurring, the word "eight" shall be substituted.

16. **Substitution of section 23C, Act IV of 1923.**—In the said Act, for section 23C the following shall be substituted, namely :—

- "23C. *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 P.M. and 6 A.M.

- (3) The provisions of this section shall not apply to women who do not perform manual work and are—
- (a) holding positions of managerial or technical character; or
 - (b) employed in health and welfare services.”

17. **Amendment of section 25, Act IV of 1923.**—In the said Act, section 25 shall be renumbered as sub-section (1) of that section and, after sub-section (1) renumbered as aforesaid, the following new sub-sections (2), (3), (4) and (5) shall be added, namely :—

- “(2) When as a result of grant of an exemption to any mine from the provisions of section 22A, any person employed therein is deprived of any of the weekly days of rest, he shall be allowed within two months from the date on which the weekly day of rest was due, compensatory days of rest equal in number to the days of rest of which he has been deprived.
- (3) In case of prescribed 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 22B or section 22C may, with the prior approval of the Chief Inspector, be raised to not more than fifty-six hours in any week or ten hours in any day.
- (4) In exceptional cases of pressure of work, the Chief Inspector may grant temporary exemption to a mine from the provisions of section 22A, section 22B or section 22C for a period not exceeding ninety days in any calendar year, within the maximum limits of—
- (a) ten hours of work in any one day, and
 - (b) twelve hours of spread over, inclusive of intervals for rest of meal, in any one day.
- (5) Subject to the maximum limits specified in sub-section (4), the appropriate Government 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.”

18. **Insertion of section 25A, Act IV of 1923.**—In the said Act, after section 25 amended as aforesaid, the following new section 25A shall be inserted, namely :—

“25A. *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 favourable 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—

- (i) the value of any house-accommodation, supply of light, water, medical attendance or other amenity;

- (ii) any contribution paid by the owner to any pension fund or provident fund ;
 - (iii) any travelling allowance or the value of travelling concession ;
 - (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or
 - (v) any gratuity, bonus, overtime allowance or share in profits of the mine.
- (2) Where any person employed in a mine is paid on a piece-rate basis, the appropriate Government, in consultation with the employer concerned and the representatives of the persons employed in the mine, may, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.
- (3) The appropriate Government may prescribe the registers that shall be maintained in a mine for the purpose of securing compliance with the provisions of this section.”.

19. **Amendment of section 26B, Act IV of 1923.**—In the said Act, in section 26B, in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

“ Provided further that such person while so employed or permitted to work, shall be granted a rest period of at least thirteen consecutive hours between two working periods.”.

20. **Insertion of Chapter VIA, Act IV of 1923.**—After Chapter VI, the following new Chapter VIA shall be inserted, namely :—

“ CHAPTER VIA

LEAVE AND HOLIDAYS WITH WAGES

28A *Application of the Chapter.*—Nothing in this Chapter shall affect any right or privilege to which a person employed in a mine has been entitled on the date of coming into force of the Mines (Amendment) Ordinance, 1973, under any existing law or under any award, agreement, settlement, contract, custom or usage if such right or privilege is more favourable to him, nor shall such right or privilege be combined with or be in addition to, the benefits under the provisions of this Chapter.

28B. *Annual leave with wages.*—(1) Every person who has completed one year of continuous service in a mine shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated at the rate of—

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

- (b) one day for every twenty days of work performed above ground during the previous period of twelve months :

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

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

- (3) If a person entitled to leave under sub-section (1) is discharged before he has been allowed the leave or, if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the owner, agent or manager shall pay him the amount payable under section 28E in respect of the leave.

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

- (a) any holiday ;
- (b) any leave with wages ;
- (c) any leave, with or without 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 an 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 muster rolls of his mine ; or
- (f) a strike which is not illegal or a lockout which is not legal.

28C. *Festival holidays*.—Every person employed in a mine shall be allowed, with wages, such festival holidays as are declared by the appropriate Government to be public holidays.

28D. *Casual leave and sick leave*.—Every person employed in a mine shall be entitled in a year to ten days' casual leave on full wages and sixteen days' sick leave 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.

28E. *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.

28F. *Payment in advance in certain cases.*—Any person who has been allowed leave for not less than four days under section 28B shall, before his leave begins, be paid the wages due for the period of the leave allowed.

28G. *Power of Inspector to act for workers.*—Any Inspector may institute proceedings on behalf of any person who has been or is employed in a mine to recover any sum required to be, but not, paid by an owner, agent or manager in accordance with this Chapter.”

21. **Amendment of section 29, Act IV of 1923.**—In the said Act, in section 29,—

(a) after clause (h), the following new clause (hh) shall be inserted, namely :—

“(hh) for providing for the appointment in mines wherein two hundred and fifty or more persons are ordinarily employed of such number of welfare and safety officers as may be specified and for prescribing the qualifications and the duties to be performed by such officers ;” ;

(b) after clause (i), the following new clause (ii) shall be inserted, namely :—

“(ii) for regulating, subject to the provisions of 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 the regulation of the use of all electrical apparatus and electrical cables in mines ;” ;

(c) after clause (j), the following new clauses (jj) and (jjj) shall be inserted, namely :—

“(jj) for 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 ;

(jjj) for providing for and regulating the medical examination of the persons before they are employed in mines and also during the period of employment at such intervals as may be prescribed ;” ;

(d) after clause (1), the following new clauses (II) and (III) shall be inserted, namely :—

“(II) for 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 ;

(III) for 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 ;” ;

- (e) in clause (m), after the word "dust", the commas and words " , ionising radiations, radioactive gases and dust, fire and inflammable" shall be inserted;
- (f) in clause (n), for the words "and plant and of all electrical apparatus used for signalling purposes" the commas and words " , plant, equipment and material in mines" shall be substituted;
- (g) after clause (n) amended as aforesaid, the following new clause (nn) shall be inserted, namely :—
- "(nn) for providing for the safety of persons present on haulage roads in mines and for prohibiting, restricting or regulating the use of certain classes of locomotives underground ;";
- (h) for clause (o) the following shall be substituted, namely :—
- "(o) for 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 ;";
- (i) after clause (o) substituted as aforesaid, the following new clause (oo) shall be inserted, namely :—
- "(oo) for prescribing protective equipments and clothings and breathing apparatus for all persons or classes of persons employed in mines or classes of mines and requiring and regulating the use of such protective equipments, clothings and apparatus ;"; and
- (j) after clause (q), the following new clause (qq) shall be inserted, namely :—
- "(qq) for prescribing the form of, the authorities to whom, and the time within which, the notice required by sub-section (1) of section 20A shall be sent by the owner, agent or manager of a mine, and the fees to be paid to the medical practitioners under sub-section (5) of that section ;";

22. Amendment of section 30, Act IV of 1923.—In the said Act, in section 30,—

- (a) after clause (aa), the following new clause (aaa) shall be inserted, namely :—
- "(aaa) for requiring facilities and security of service to be provided to managers of mines and other persons acting under them for enabling them to efficiently discharge their duties ;";
- (b) after clause (bbb), the following new clause (bbbb) shall be inserted, namely :—
- "(bbbb) for 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 therefor and the representation of the persons employed in the mines in the management of such canteens ;";

(c) in clause (c), after the word and comma "drinking-water," the words and commas "the standard of first-aid rooms and shelters, the equipment and furniture therein and the nature and extent of supervision to be provided therefor," shall be inserted; and

(d) after clause (f), the following new clauses (ff) and (fff) shall be inserted, namely :—

"(ff) to fix the time rates for the persons employed on piece-rated basis and for requiring the maintenance of payment registers for overtime work and prescribing the form thereof;

(fff) for 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;"

23. Amendment of section 30A, Act IV of 1923.—In the said Act, in section 30A, in clause (d), for the words "six pies" the words "three paise" shall be substituted.

24. Amendment of section 34, Act IV of 1923.—In the said Act, in section 34,—

(a) in sub-section (1), for the words "five hundred" the words "one thousand" shall be substituted; and

(b) in sub-section (2), for the word "three" the word "six" shall be substituted.

25. Amendment of section 35, Act IV of 1923.—In the said Act, in section 35, for the words "five hundred" the words "one thousand" shall be substituted.

26. Amendment of section 36, Act IV of 1923.—In the said Act, in section 36, for the word "two" the word "four" shall be substituted.

27. Amendment of section 37, Act IV of 1923.—In the said Act, in section 37, for the words "five hundred" the words "one thousand" shall be substituted.

28. Amendment of section 38, Act IV of 1923.—In the said Act, in section 38, for the words "five hundred", wherever occurring, the words "one thousand" shall be substituted.

29. Amendment of section 39, Act IV of 1923.—In the said Act, in section 39, for the word "one", twice occurring, the word "two" shall be substituted.

30. Amendment of section 40, Act IV of 1923.—In the said Act, in section 40, in sub-section (1),—

(a) for the word "two" the word "four" shall be substituted;

(b) for the words "one thousand" the words "two thousand" shall be substituted; and

(c) for the words "five hundred" the words "one thousand" shall be substituted.

31. **Insertion of new section 40A, Act IV of 1923.**—In the said Act, after section 40, the following new section 40A shall be inserted, namely :—

“40A. *Special provision regarding fine.*—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (*Act V of 1898*), it shall be lawful for a Magistrate of the first class to pass a sentence of fine exceeding one thousand rupees authorised by this Act on any person convicted of an offence thereunder.”.

32. **Substitution of section 42, Act IV of 1923.**—In the said Act, for section 42 the following shall be substituted, namely :—

“42. *Limitation of prosecution.*—No court shall take cognizance of any offence under this Act unless complaint thereof has been made—

- (i) within six months of the date on which the offence is alleged to have been committed, or
- (ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or
- (iii) in any case where a person has been appointed by the appropriate Government under section 21 to hold an inquiry, within six months of the date of the making of the report referred to in sub-section (4) of that section, whichever is the later.”.

33. **Amendment of section 46, Act IV of 1923.**—In the said Act, in section 46, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

“Provided further that no exemption from the operation of the provisions of section 22B or section 22C or section 25A shall be granted except in the event of war or other emergency threatening the national safety.”.

34. **Repeal of Ordinance VII of 1973.**—The Mines (Amendment) Ordinance, 1973 (*VII of 1973*), is hereby repealed.