

# CONSOLIDATION OF MINE HEALTH AND SAFETY ACT

S.N.W.T. 1994,c.25

In force December 15, 1995: SI-014-95

*(Current to: October 17, 2011)*

## **AS AMENDED BY NORTHWEST TERRITORIES STATUTES:**

S.N.W.T. 1996,c.9

In force April 16, 1996

## **AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:**

S.N.W.T. 1998,c.34

In force April 1, 1999

## **AS AMENDED BY NUNAVUT STATUTES:**

S.Nu. 2007,c.15,s.177(Sch.,s.10)

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This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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**MINE HEALTH AND SAFETY ACT**

## Definitions

1. In this Act,

"chief inspector" means the chief inspector appointed by the Commission under section 34; (*inspecteur en chef*)

"closed mine" means a closed mine as defined in the regulations; (*mine fermée*)

"Commission" means the Workers' Safety and Compensation Commission; (*Commission*);

"Committee" means an Occupational Health and Safety Committee established under section 11; (*comité*)

"dangerous occurrence" means a dangerous occurrence as defined in the regulations; (*événement dangereux*)

"earnings" includes amounts paid at the hourly rate of pay of an employee and any bonus or increment paid to the employee; (*gains*)

"employee" means any person employed at a mine; (*employé*)

"inspector" means a person appointed as an inspector under subsection 35(1); (*inspecteur*)

"manager" means a person appointed as the manager for a mine under subsection 8(1); (*directeur*)

"mine" includes

- (a) a place where the ground is mechanically disturbed or an excavation is made to explore for or to produce minerals, other than a place where persons use only hand tools to explore for minerals;
- (b) machinery, equipment and material used in connection with a mine;
- (c) buildings and shelters used in connection with a mine, other than bunkhouses, cook houses and related residential facilities;
- (d) a place where mining activities such as exploratory drilling, excavation, processing, concentrating, storage, waste disposal and work associated with mine site reclamation are carried out;
- (e) a mine under construction; and
- (f) a closed mine; (*mine*)

"minerals" includes naturally occurring minerals and mineral bearing substances, placer minerals, coal, rock, limestone, clay, earth, sand and gravel; (*minéraux*)

"owner" means a person that is the immediate proprietor, lessee or occupier of a mine or any part of a mine, unless the person

- (a) receives only a royalty or rent from a mine that is subject to a lease, grant or other authority for its working; or
- (b) is the owner of the surface rights of land where a mine exists but is not the owner of the minerals in the land; (*propriétaire*)

"supervisor" means a person who

- (a) has charge of a worksite or worksites;
- (b) instructs, directs or controls employees in the performance of their duties; or
- (c) is authorized by the manager to take or recommend disciplinary action against employees; (*surveillant*)

"union local" means a trade union certified under the *Canada Labour Code* to represent employees at a mine; (*syndicat*)

"worker" means an employee other than the manager or a supervisor; (*travailleur*)

"worksite" means a place where work is carried out at a mine. (*lieu de travail*)  
S.N.W.T. 1996,c.9,Sch.I,s.9; S.Nu. 2007,c.15,s.177(Sch.,s.10(2),(3)(a)).

## DUTIES AND RESPONSIBILITIES

Duties of owner

**2.** (1) The owner of a mine shall take every reasonable measure and precaution to protect the health and safety of employees and other persons at the mine.

Owner to ensure safe work practices

- (2) The owner of a mine shall
  - (a) implement and maintain work practices that are safe and that do not present undue risk to health; and
  - (b) provide and maintain healthy and safe worksites.

Owner to ensure compliance with Act

- (3) The owner of a mine shall ensure that
  - (a) provision is made for such supervision, instruction and training as is necessary to protect the occupational health and safety of the employees;
  - (b) the mine is constructed, developed, reconstructed, altered or added to in accordance with this Act and the regulations;
  - (c) machinery, equipment, material and protective devices that are required, by the regulations, to be used at the mine or available for the use of employees at the mine, are available for such use;
  - (d) personal protective equipment required by the regulations to be provided to employees is so provided; and

- (e) the mine is operated in accordance with this Act and the regulations.

#### Duties of directors and officers

- 3.** Every director and officer of a corporation that is the owner of a mine shall ensure, to the extent practicable, that the corporation complies with
- (a) this Act and the regulations; and
  - (b) orders of inspectors and the orders and directives of the chief inspector.

#### Change of ownership

- 4.** (1) Where ownership of a mine changes, the new owner shall notify the Commission and the chief inspector of the change, in writing, within seven days after the change.

#### Change of name

- (2) The owner of a mine shall notify the Commission and the chief inspector, in writing, of a change in the name of the mine within seven days after the change. S.N.W.T. 1996,c.9,Sch.I,s.10; S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(b)).

#### Preparation of mine design

- 5.** The owner of an underground mine or of a surface mine that produces minerals shall submit to the Commission and the chief inspector a mine design that includes the information required by the regulations. S.N.W.T. 1996,c.9,Sch.I,s.10; S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(c)).

#### Commencement of work project

- 6.** The owner of a mine shall, in accordance with the regulations, submit plans, specifications and drawings to the Commission and the chief inspector before work commences on a prescribed project at the mine, and no work shall be commenced on the project until the chief inspector has given permission. S.N.W.T. 1996,c.9,Sch.I,s.10; S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(d)).

#### Notice of cessation of work at mine

- 7.** The owner of a mine shall, in accordance with the regulations, give notice to the Commission and the chief inspector of intent to stop work at a mine for a period exceeding one month. S.N.W.T. 1996,c.9,Sch.I,s.10; S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(e)).

#### Appointment of manager

- 8.** (1) The owner of a mine shall
- (a) appoint, in writing, a person having the prescribed qualifications as manager for the mine before any work commences at a mine; and
  - (b) ensure that there is a person having the prescribed qualifications acting as manager at all times, unless the mine has been closed in accordance with the regulations.



#### Notice of manager

(2) The owner of a mine shall, without delay, give the Commission and the chief inspector a notice identifying any person appointed as manager.

S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(f)).

#### Acting manager

(3) A manager shall, in writing, designate an acting manager to exercise the powers and perform the duties of the manager during the temporary absence of the manager.

#### Notice of acting manager

(4) The manager shall, without delay, inform the chief inspector of the designation of an acting manager. S.N.W.T. 1996,c.9,Sch.I,s.10.

#### Designation of senior officer

**9.** (1) Where the owner of a mine is a corporation, the owner shall designate a senior officer of the corporation to serve as a liaison between the corporation and

- (a) the manager; and
- (b) the Commission and the chief inspector.

#### Responsibility of senior officer

(2) The senior officer designated under subsection (1) shall

- (a) review orders and directives sent by a manager under paragraph 10(3)(j) and consult with the manager to ensure that the mine complies with such orders and directives; and
- (b) provide to the Commission and the chief inspector, on behalf of the owner, the information required to be provided to the Commission and the chief inspector under subsections 4(1) and (2), sections 5, 6 and 7 and subsection 8(2).

S.N.W.T. 1996,c.9,Sch.I,s.10;

S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(g)).

#### Duties of manager

**10.** (1) The manager shall take every reasonable measure and precaution to protect the health and safety of employees and other persons at a mine.

#### Manager to comply with Act

(2) The manager shall

- (a) comply with this Act and the regulations and any orders or directives issued under this Act or the regulations;
- (b) ensure that the requirements of this Act and the regulations are met in the operation of the mine; and
- (c) ensure that any orders and directives issued under this Act or the regulations are complied with in the operation of the mine.

#### Further duties of manager

(3) In addition to the duties imposed under subsections (1) and (2), the manager shall

- (a) ensure that machinery, equipment, materials and protective devices required to be used at or available at the mine are maintained in good condition;
- (b) ensure that the personal protective equipment required to be provided to employees by the regulations is maintained in good condition;
- (c) when appointing a supervisor or surveyor, appoint a person possessing the prescribed qualifications;
- (d) ensure that an employee is under the daily supervision of a person possessing the prescribed qualifications;
- (e) ensure that an employee receives the information, instruction and supervision necessary to protect his or her health and safety;
- (f) establish and maintain an occupational health and safety program as required under the regulations;
- (g) establish and maintain a medical surveillance program for employees as required under the regulations;
- (h) establish and maintain a mine rescue program as required under the regulations;
- (i) ensure that any order, directive, notice or other document that is required to be posted at a mine under this Act or the regulations is maintained in a legible condition; and
- (j) where an owner is a corporation, send a copy of every order of an inspector and every order and directive of the chief inspector to the senior officer of the corporation designated under subsection 9(1) to review and consult with the manager in respect of such orders and directives.

#### Occupational Health and Safety Committee

**11.** (1) Where more than 15 persons are employed at a mine, the manager shall ensure that an Occupational Health and Safety Committee is established for the mine in accordance with the regulations.

#### Composition of Committee

(2) A Committee shall consist of

- (a) management members appointed by the manager; and
- (b) an equal or greater number of worker members elected by the workers.

#### Selection of co-chairperson

(3) A Committee shall be chaired by

- (a) a management co-chairperson selected by the management members from among their number; and

- (b) a worker co-chairperson selected by the worker members from among their number.

#### Acting co-chairperson

(4) A co-chairperson may designate a member of the Committee to exercise the powers and perform the duties of the co-chairperson during the temporary absence of the co-chairperson.

#### Decision by majority

(5) A decision of the Committee is determined by a majority of the members participating in the decision.

#### Duties of Committee

##### **12.** A Committee shall

- (a) conduct inspections of work sites at the mine in accordance with the regulations;
- (b) identify conditions or practices that may be hazardous to employees or other persons; and
- (c) make recommendations to the manager and the employees in respect of occupational health and safety.

#### Duties of manager in respect of Committee

##### **13.** A manager shall

- (a) enable Committee members to participate in inspections, investigations and meetings required by the regulations;
- (b) ensure that Committee members are paid at not less than their regular hourly rate of pay for time spent participating in Committee activities; and
- (c) ensure that Committee members receive, in accordance with the regulations, training relating to the functions of the Committee.

#### Register of employees

**14.** (1) A manager shall maintain, in a form approved by the chief inspector, a register of each person employed at the mine.

#### Register to be provided to chief inspector

(2) A manager shall, at the request of the chief inspector, provide the chief inspector with a copy of the register certified by the manager to be a true copy.

#### Duties of contractor

**15.** Where a contractor performs work at a mine, the contractor, the employee or officer of the contractor in charge of the work of the contractor at the mine and the owner and manager of the mine shall, in respect of the work of the contractor at the mine,

- (a) take every reasonable measure and precaution to protect the health and safety of employees of the contractor, employees of the mine and other persons at the mine; and

- (b) comply with, and ensure that other persons comply with, this Act and the regulations and any applicable orders or directives issued under this Act or the regulations.

#### Duties of supervisors

**16.** (1) A supervisor shall take every reasonable measure and precaution to protect the health and safety of

- (a) employees under his or her direction and control; and
- (b) other employees or persons at the mine.

#### Supervisor to comply with Act

(2) A supervisor at a mine shall

- (a) comply with this Act and the regulations and any orders or directives issued under this Act and the regulations;
- (b) ensure that the requirements of this Act and the regulations are met in respect of those aspects of the operation of the mine that are the responsibility of the supervisor; and
- (c) ensure that any orders and directives issued under this Act or the regulations are complied with in respect of those aspects of the operation of the mine that are the responsibility of the supervisor.

#### Workers to comply with Act

**17.** A worker shall

- (a) take every reasonable measure and precaution to protect the health and safety of employees and other persons at the mine; and
- (b) comply with this Act and the regulations and any orders and directives issued under this Act and the regulations.

### RIGHT TO REFUSE WORK

#### Right to refuse work

**18.** (1) An employee may refuse to perform any work or to operate any machine, equipment or tool if he or she has reasonable cause to believe that to do so could endanger the health or safety of any person.

#### Dangerous work site

(2) An employee may refuse to work at any worksite if he or she has reasonable cause to believe that the condition of the worksite could endanger the health or safety of any person.

#### Report to supervisor

(3) The employee shall report the reasons for his or her refusal to work to his or her supervisor without delay.

#### Duty to follow prescribed procedures

(4) The owner and manager and each supervisor and worker affected by a refusal to work shall resolve the refusal in accordance with the practices and procedures set out in the regulations.

### DISCRIMINATION

#### Discrimination

**19.** The owner and manager of a mine shall ensure that no employee is discriminated against in any manner, including having a term or condition of employment adversely changed, for complying with this Act and the regulations.

#### Investigation of report of discrimination

**20.** (1) Where advised in writing of an alleged case of discrimination against an employee for complying with this Act or the regulations or for refusing to work in accordance with section 18, the chief inspector shall make an investigation and report his or her findings to the manager, the employee and the Committee and the union local, if any.

#### Powers of chief inspector

(2) Where the chief inspector is satisfied that an employee has been discriminated against for complying with this Act and the regulations, the chief inspector may make one or more orders requiring the owner or manager to do one or more of the following:

- (a) cease the discrimination;
- (b) hire or reinstate the employee;
- (c) pay to the employee any earnings lost as a result of the discrimination;
- (d) pay the employee any reasonable expenses incurred by the employee as a result of the discrimination;
- (e) remove any reference to the discriminatory action from the personnel file of the employee.

### INVESTIGATION AND INSPECTION

#### Entry of mine

**21.** (1) An inspector may enter a mine at any time for the purposes of an investigation or inspection.

#### Persons accompanying inspector

(2) An inspector may bring any other person to the mine to assist the inspector in an investigation or inspection.

#### Powers of inspector on investigation or inspection

- (3) An inspector may, for purposes of an investigation or inspection,
- (a) inspect and test any electrical or mechanical equipment or any other thing at a mine;

- (b) remove, or order that a person remove, any obstruction that may prevent a thorough inspection;
- (c) order that a person produce any plan, specification, maintenance log, electronic data or other document relating to the operation of a mine; and
- (d) examine and remove, for the purpose of making copies, any plan, specification, maintenance log, electronic data or other document.

#### Seizure

**22.** (1) Where, in the performance of an investigation or inspection, an inspector has reasonable grounds to believe that a provision of this Act or the regulations has been contravened, the inspector may seize anything that the inspector reasonably believes will afford evidence with respect to the contravention.

#### Removal or detention of seized thing

(2) The inspector may remove from the mine a thing that has been seized, or may detain the thing at the place where it has been seized or elsewhere at the mine, after affixing to it a label or tag that

- (a) states that the thing is under seizure; and
- (b) states that the use or handling of the thing is prohibited or specifies restrictions applicable to the use or handling of the thing.

#### Receipt

(3) The inspector shall inform the manager or the person from whom the thing is seized of the reasons for the seizure, and shall provide a receipt for the thing seized if it is removed from the mine.

#### Assistance to inspector

**23.** The owner and manager of a mine being investigated or inspected by an inspector, and every person at the mine, shall

- (a) provide the inspector and a person brought with the inspector under subsection 21(2) with access to the mine;
- (b) give the inspector all reasonable assistance to enable the inspector to carry out his or her duties under this Act and the regulations;
- (c) provide the inspector with such information relevant to the administration of this Act and the regulations as the inspector may reasonably request;
- (d) provide the inspector with access to plans, specifications, maintenance logs, electronic data and other documents at the mine; and
- (e) make such adjustments in operating schedules as the inspector may reasonably request to facilitate the investigation or inspection.

#### Investigation of loss of life

**24.** (1) An inspector shall investigate an accident that has caused loss of life.

#### Investigation of injury, property damage, or dangerous occurrence

- (2) An inspector may investigate
- (a) an accident that has caused property damage or an injury to any person; or
  - (b) a dangerous occurrence.

#### Review of safety matters

- (3) An inspector shall, after conducting an investigation under this section,
- (a) meet or otherwise communicate separately with the manager and with the Committee, if any, to review occupational health and safety matters arising out of the accident or dangerous occurrence that is the subject of the investigation; and
  - (b) provide a written report to the chief inspector.

#### Representatives of Committee

**25.** (1) An inspector shall, before commencing an inspection at a mine where a Committee has been established, request the manager to arrange for the worker co-chairperson and the management co-chairperson of the Committee to each appoint a representative to accompany the inspector on the inspection.

#### Meeting with co-chairperson

(2) Where there is no worker member of the Committee available to accompany the inspector, the inspector shall, on completion of the inspection, meet with or otherwise communicate with the worker co-chairperson to discuss the findings of the inspector and the occupational health and safety concerns of the inspector and the worker co-chairperson.

#### Consultation with workers

(3) Where there is no Committee established for the mine or there is no worker member of the Committee present at the mine at the time of inspection, the inspector shall consult with a reasonable number of workers concerning matters of occupational health and safety.

#### Inspector to meet with manager

**26.** (1) An inspector shall, after completing an inspection, meet with the manager or his or her designate to discuss the findings of the inspector and occupational health and safety concerns noted by the inspector.

#### Inspection report

(2) The inspector shall, within 72 hours after the last day of his or her inspection, provide to the manager and the Committee and union local, if any, a written inspection report that

- (a) lists the worksites inspected;
- (b) lists any infractions noted; and
- (c) where infractions are noted, orders the taking of remedial action and specifies time limits for compliance.

#### Order for immediate remedial action

- 27.** (1) Where an inspector is of the opinion that a delay in remedying a hazard would endanger persons or property, the inspector shall issue a written order to the manager
- (a) requiring the taking of immediate remedial action; or
  - (b) requiring the stoppage of regular work of the mine or a part of the mine until remedial action is taken.

#### Order provided to Committee and union local

- (2) The inspector shall give a copy of an order issued under subsection (1) to the Committee and union local, if any.

#### Payment of employees if work cessation occurs

- (3) Where an inspector makes an order under this section resulting in the stoppage of regular work at a mine or a part of the mine, the owner shall, if employees are not assigned to alternative work, pay or cause to be paid to each employee the earnings that the employee would have earned or been likely to earn for each day the stoppage continues, up to a maximum of three working days.

#### Posting of inspection reports

- 28.** The manager shall post all inspection reports and orders issued by an inspector in a conspicuous place at the mine for at least 30 days after the manager receives the inspection report or order.

#### Report on remedial work

- 29.** (1) The manager shall, within 30 days after receiving an inspection report, submit a written report to the chief inspector outlining the remedial measures taken and the remedial measures still to be taken in respect of the inspection report.

#### Copies of report

- (2) The manager shall, without delay, provide a copy of the report submitted to the chief inspector under subsection (1) to the Committee and union local, if any.

#### Independent report

- 30.** The chief inspector may order the owner or manager of a mine to provide, at the expense of the owner, an independent report prepared by a professional engineer or other qualified person acceptable to the chief inspector respecting
- (a) occupational health and safety or the safety of equipment, buildings, workings or structures at the mine; or
  - (b) an accident or a dangerous occurrence that the inspector is investigating.

#### Compliance order

- 31.** (1) Where an inspector finds that a mine is not being operated in accordance with provisions of this Act or the regulations, the inspector may, in writing, order the owner or manager to comply with such provisions.



#### Application for Supreme Court order

(2) Where a person fails or refuses to comply with an order issued by an inspector under subsection (1) or under subsection 27(1), the chief inspector may make an application to the Supreme Court for an order of the Supreme Court requiring the person to take the action required in the order of the inspector or to desist from taking an action that is prohibited in the order of the inspector.

#### Appeal to chief inspector

**32.** (1) A person who is adversely affected by a decision or order issued by an inspector may appeal the decision or order, in writing, to the chief inspector within 30 days after its issue.

#### Duties of chief inspector on appeal

(2) The chief inspector shall

- (a) give the appellant, owner, manager and the Committee and union local, if any, an opportunity to make a submission in respect of the appeal;
- (b) provide copies of all submissions received by the chief inspector in respect of the appeal to the appellant, owner, manager and the Committee and union local, if any; and
- (c) notify the appellant, owner, manager and the Committee and union local, if any, of the decision of the chief inspector on the appeal.

#### Order or decision continued

(3) Unless the chief inspector orders otherwise, an order or decision that is the subject of an appeal continues to apply pending the decision of the appeal.

#### Decision of chief inspector

(4) The chief inspector shall decide an appeal as soon as is practicable.

#### Appeal to Supreme Court

**33.** (1) A person affected by an order or decision of the chief inspector may appeal to the Supreme Court.

#### Limitation

(2) A person who appeals a decision of the chief inspector shall file a notice of appeal with the Supreme Court within 30 days after the decision was made.

#### Procedure on appeal

(3) The appeal shall be conducted in accordance with the procedure for appeals from tribunals set out in the *Judicature Act*.

#### Order or decision continued

(4) Unless the Supreme Court orders otherwise, the order or decision appealed from continues to apply pending disposition of the appeal.

### Powers of Supreme Court

(5) After hearing an appeal, the Supreme Court may confirm, vary or set aside the decision of the chief inspector.

### Decision final

(6) The decision of the Supreme Court on an appeal is final and binding.  
S.N.W.T. 1998,c.34,Sch.C,s.23.

## ADMINISTRATION

### Appointment of chief inspector

**34.** The Commission shall appoint a person possessing the prescribed qualifications as chief inspector. S.N.W.T. 1996,c.9,Sch.I,s.10; S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(h)).

### Appointment of inspectors

**35.** (1) The chief inspector may appoint persons possessing the prescribed qualifications as inspectors.

### Delegation of powers to inspectors

(2) The chief inspector may delegate to an inspector, in writing, any of the powers of the chief inspector under this Act except the power of the chief inspector to

- (a) make an application to the Supreme Court under subsection 31(2);
- (b) decide an appeal under section 32;
- (c) appoint inspectors under subsection (1); or
- (d) make an order under subsection 47(1) suspending or varying a provision of the regulations in respect of a mine and to review such an order under subsection 47(2).

### Chief inspector has powers of an inspector

(3) The chief inspector may exercise any of the powers or perform any of the duties of an inspector under this Act and the regulations.

### Directives of chief inspector

**36.** (1) The chief inspector may issue directives respecting occupational health and safety matters that are applicable to more than one mine.

### Effect of directives

(2) A directive has the same force and effect as an order.

### Posting of directives

(3) The manager shall post at a conspicuous place at the mine all directives that are applicable to the mine.

**Chief inspector and inspectors not liable**

**37.** (1) The chief inspector, inspectors and other persons employed in the administration of this Act and the regulations are not liable for loss or damage caused by anything done or not done by them in good faith in the performance of their duties or in the exercise of their powers.

**Government and Board not liable**

(2) The Government of the Northwest Territories and the Commission are not liable for loss or damage caused by anything done or not done in good faith by any of the persons referred to in subsection (1) in the performance of their duties or in the exercise of their powers. S.N.W.T. 1996,c.9,Sch.I,s.11; S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(i)).

**37.1. Repealed, S.Nu. 2007,c.15,s.177(Sch.,s.10(4)).**

**OFFENCES****Obstruction of inspector or the chief inspector**

**38.** (1) No person shall hinder, obstruct or interfere with an inspector or the chief inspector in the exercise of a power or the performance of a duty under this Act or the regulations.

**False information**

(2) No person shall knowingly provide false or misleading information to an inspector or the chief inspector or neglect or refuse to provide information required by the inspector or the chief inspector in the exercise of a power or the performance of a duty under this Act or the regulations.

**False or misleading entry**

(3) No person shall knowingly make a false or misleading entry in any record required to be kept by this Act or the regulations.

**Penalty**

**39.** (1) A person who contravenes or fails to comply with a provision of this Act or the regulations, an order of an inspector or an order or directive of the chief inspector, is guilty of an offence punishable on summary conviction and is liable

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding six months, or to both; and
- (b) in the case of a corporation, to a fine not exceeding \$500,000.

**Application of fines**

(2) Every fine imposed under this Act shall, when collected, be paid over to the Commission and form part of the Workers' Protection Fund as defined in subsection 1(1) of the *Workers' Compensation Act*. S.N.W.T. 1996,c.9,Sch.I,s.13; S.Nu. 2007,c.15,s.177(Sch.,s.10(3)(j),(5)).

#### Continuing offence

**40.** Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is guilty of a separate offence for each day on which the offence is committed or continued.

#### Liability of corporate officers, directors and agents

**41.** Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable to the punishment provided for the offence under section 39, whether or not the corporation has been prosecuted or convicted.

#### Proof of offence

**42.** In any prosecution of an offence under this Act or the regulations it is sufficient proof of the offence to establish that it was committed by an employee or agent of the defendant, whether or not the employee or agent is identified or prosecuted for the offence.

#### Defence

**43.** No person is guilty of an offence under this Act or the regulations if the person establishes that he or she took all reasonable measures to prevent its commission.

#### Limitation

**44.** No proceedings may be instituted in respect of an offence under this Act or the regulations later than one year after the day on which an inspector or the chief inspector became aware of the subject matter of the proceedings.

## REGULATIONS

#### Regulations

**45.** The Commissioner, on the recommendation of the Minister, may make regulations

- (a) respecting the safe operation of mines and the occupational health and safety of employees of mines;
- (b) respecting occupational health and safety standards to be observed at mines;
- (c) respecting occupational health and safety programs for mines;
- (d) respecting the duties and composition of Occupational Health and Safety Committees, including the
  - (i) composition of Committees,
  - (ii) training of Committee members, and
  - (iii) conduct of inspections and the performance of other duties of Committees;
- (e) requiring the owner of a mine to provide, and the manager to maintain, machinery, equipment, material and protective devices at the mine or at prescribed worksites at the mine;
- (f) prescribing personal protective equipment that an owner is required to provide for the use of employees, and requiring employees to carry and use such equipment;

- (g) establishing rules and standards for the installation, construction, application and use of any works, structure, plant, machinery, equipment, material or other facilities used in connection with a mine;
- (h) respecting mine rescue and mine rescue programs, and respecting the
  - (i) machines, equipment and materials that must be maintained at a mine, and
  - (ii) the training of employees, for purposes of mine rescue;
- (i) respecting the right to refuse to work, and the practices and procedures to be followed in the event of a refusal to work;
- (j) respecting the medical examination of employees under a medical surveillance program;
- (k) respecting procedures and standards for the training of employees;
- (l) respecting the qualifications required of managers, supervisors, surveyors and other employees engaged in occupations commonly pursued at mines;
- (m) respecting qualifications for the issue of certificates for managers, supervisors, surveyors and hoist operators, and respecting the issue, suspension and cancellation of such certificates;
- (n) respecting the information to be included in the mine design for an underground mine or for a surface mine that produces a mineral;
- (o) respecting the information to be contained in plans, specifications and drawings required to be submitted to the chief inspector in prescribed circumstances;
- (p) respecting the minimum width of party walls between adjoining mines, the surface use of party walls, and the resolution of disputes between the owners of mines relating to party walls;
- (q) respecting coal mines;
- (r) respecting the notice to be given by an owner of the intent to stop work at a mine for a period exceeding one month;
- (s) defining closed mines for purposes of this Act and the regulations;
- (t) respecting the closing of mines and the safety of workings, dumps, structures and other facilities at closed mines located on lands covered by a mineral exploration or mining lease;
- (u) respecting hours of work at mines;
- (v) prescribing fees or a method for determining fees for any certificate issued or any service provided under this Act or the regulations;
- (w) respecting any aspect of the operation of a mine, including the exemption of the mine from the operation of a regulation or any provision of a regulation;
- (x) defining dangerous occurrences for purposes of this Act and the regulations;
- (y) respecting the investigation of dangerous occurrences;
- (z) respecting qualifications required of the chief inspector and inspectors;

- (za) prescribing any matter that may or is to be prescribed by this Act; and
- (zb) respecting any other matter the Commissioner considers necessary for carrying out the purposes and provisions of this Act.

#### Adoption of code

**46.** (1) Where a code of rules or standards relevant to the safe operation of mines is established by any association, person or body of persons and is available in printed form, the Commissioner, on the recommendation of the Minister, may adopt the code by regulation, and upon adoption the code is in force in the Territories either in whole or in part or with such variations as may be specified in the regulation.

#### Amendment of code

(2) A regulation made under subsection (1) may adopt a code as amended from time to time.

#### Publication of notice of adoption

(3) Where a code is adopted under this section, publication in the *Northwest Territories Gazette* of a notice of adoption identifying the code, stating where copies of the code can be obtained, the extent of its adoption and setting out the variations subject to which it is adopted, shall, for the purposes of the *Statutory Instruments Act*, be deemed sufficient publication without publishing the text of the code adopted in the *Northwest Territories Gazette*.

#### Request for variance of regulation

**47.** (1) A manager, Committee or union local may, in writing, request that a provision of the regulations be suspended or varied in respect of the mine.

#### Variance order

(2) The chief inspector may, by order, after giving the parties affected by a request under subsection (1) an opportunity to make submissions to the chief inspector, suspend or vary the provision if the chief inspector is of the opinion that the provision does not operate in the best interest of, or is not necessary for, the occupational health and safety of employees at the mine.

#### Review of variance orders

- (3) The chief inspector shall
- (a) maintain a register of all orders issued under subsection (2) and shall review each order
    - (i) before the second anniversary of the issue of the order, and
    - (ii) before the second anniversary of each successive review;
  - (b) before reviewing an order, advise the manager and the Committee and union local, if any, of the intent to review; and
  - (c) advise the manager and the Committee and union local, if any, whether the order is to be continued, amended or discontinued.

Mine Occupational Health and Safety Legislation Committee

**48.** (1) The Minister shall establish a Mine Occupational Health and Safety Legislation Committee consisting of the chief inspector and

- (a) three members appointed by the Minister on the recommendation of representatives of workers; and
- (b) three members appointed by the Minister on the recommendation of representatives of owners; and
- (c) such other members as the Minister considers advisable to appoint.

Chairperson

(1.1) The Mine Occupational Health and Safety Legislation Committee shall designate one of its members to be its chairperson and to preside over its meetings.

Functions

(2) The Mine Occupational Health and Safety Legislation Committee shall advise the Minister and make recommendations respecting such amendments to this Act and the regulations as may be required in the interest of occupational health and safety.

Meetings

(3) The chairperson shall convene

- (a) a first meeting within one year after the coming into force of this Act; and
- (b) subsequent meetings between 18 months and two years after the last meeting.

Meeting requested by Minister

(4) Notwithstanding paragraph 3(b), the chairperson may, at the request of the Minister, convene a meeting of the Mine Occupational Health and Safety Legislation Committee within 18 months after the last meeting. S.N.W.T. 1996,c.9,Sch.I,s.14,15,16.

MISCELLANEOUS

**49. Repealed, S.N.W.T. 1996,c.9,Sch.I,s.17.**

**Repeal**

**50. The *Mining Safety Act* is repealed.**

**Commencement**

**51. This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Commissioner.**