

PROVINCIAL ASSEMBLY OF SINDH

NOTIFICATION

KARACHI, THE 097 JANUARY, 2023

NO.PAS/LEGIS-B-33/2021- The Sindh Metalliferous Mines Bill, 2021 having been passed by the Provincial Assembly of Sindh on 19" December, 2022 and assented to by the Governor of Sindh on 12 December, 2022 is hereby published as an Act of the Legislature of Sindh.

THE SINDH METALLIFEROUS MINES ACT, 2021

SINDH ACT NO.I OF 2023

AN

ACT

to consolidate the law relating to the regulation and inspection of Metalliferous other than coal mines and matters ancillary thereto in the Province of Sindh.

WHEREAS it is expedient to consolidate the law relating to the regulation Preamble. and inspection of Metalliferous other than coal mines and to provide for matters

ancillary thereto and connected therewith.

It is hereby enacted as follows:-

CHAPTER-I

Preliminary

1. (1) This Act may be called the Sindh Metalliferous Mines Act, 2021. Short title, extent and

(2) It shall extend to the whole of the Province of Sindh. commencement.

(3) It shall come into force at once.

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

(a) "accident" means an accident arising out of during the course of employment and resulting in a personal injury, illness, or death of the employee as well as destruction of property from methane gas or dust explosion, collapse of metalliferous mine, land subsidence, inundation or flooding of mine, toxic gases;

(b) "agent", when used in relation to a Metalliferous mine, means any person appointed or acting as the representative of the owner in respect of the management of the Metalliferous mine or of any part thereof, and as such superior to a Manager under this Act;

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“Board” means the Metalliferous Mining Board constituted under section 10;

“certificate of fitness” means a certificate of fitness issued to a person under this Act pursuant to medical examination;

“child” means a person who has not completed his fourteen year;

“Committee” means the Committee constituted under section 11;

“Department” means the Mines and Mineral Development Department, Government of Sindh;

“danger” means anything which may cause injury or damage to persons or property;

“day” means a period of twenty-four hours beginning at midnight;

“duly qualified” means a person who possess the prescribed qualification and experience;

“employee” means a person is said to be “employed” in a Metalliferous mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

“environment” means working environment of Metalliferous mine or quarry;

“excavator” means a machine which may be further identified as a single or a multi bucket, fitted with device for breaking up, loading, transporting and dumping materials without lateral movement of the whole machine;

“electrical apparatus” includes electric cables and any part of any machinery, apparatus or appliance being a part designed for the generation, conversion, storage, transmission or utilization of electricity;

“Government” means the Government of Sindh;

“Chief Inspector” means the Chief Inspector of Metalliferous Mines appointed under section 3 of this Act;

“Inspector” means the Deputy Chief Inspector of Mines, an Inspector of

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Mines or Junior Inspector of Mines appointed under this Act exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

“Medical Inspector” means any person appointed by the department as Medical Inspector for the purposes of this Act;

“metalliferous mine” means any excavation in the earth whether abandoned or being worked, made for the purpose of searching for or winning any Metalliferous mineral on saleable product, and any place where a mineral deposit is being worked and includes all works, machinery, buildings, constructions, dump, dam, heavy appliances, whether above and below ground, in or adjacent to or belonging to a Metalliferous mine and includes, cutting, crushing, grinding, concentration or washing, screening situated at or near the Metalliferous mine and used for any purpose necessary or incidental to the winning and subsequent treatment (mineral dressing and value addition) of the product of the Metalliferous mine and the waste material emanating there from is considered to form part of such Metalliferous mine;

“minerals” means any naturally occurring solid substance or un-consolidated material which can be obtained from the earth by mining, digging, drilling, dredging, quarrying, hydraulic or by any other operation for the production or extraction therefrom for a saleable product, except coal mine;

“occupational disease” means the 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;

“occupational hygiene” means the anticipation, recognition, evaluation, and control of conditions arising in or from the work place which may cause illness or adverse health effects to persons;

“occupier” means a person who has ultimate control over the affairs of the metalliferous mine or quarry: provided that where the affairs of a metalliferous mine or quarry are entrusted to a managing agent, such agent shall be deemed to be the occupier of the metalliferous mine or quarry;

“owner” when used in relation to a metalliferous mine, means any person

who is the immediate proprietor or lessee or occupier of the metalliferous mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the metalliferous mine or is merely the proprietor of the mine subject to any lease, grantor license for the

working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor or mate or sub lessee for the working of a metalliferous mine or any like part thereof, shall be subject to this Act in manner as if he were an owner, but not so as to exempt the owner from any liability;

(y) "plant and machinery" means, any mining machinery and includes fixture, fitting, equipment, tools and appliances and anything which is used for any purpose in the metalliferous mine;

(z) "prescribed" means prescribed by regulations, rules or bye-laws;

(aa) "regulations", "rules" and "bye-laws" means respectively regulations, rules and bye-laws under this Act;

(bb) "relay" means where work of the same kind is carried out by two or more sets of workers working during different periods of the day each of such sets is called a "relay" and the period for which it works is called a "shift";

(cc) "risk work" means an environment in which any kinds of mining operations may probably cause occupational disease or injury or damages;

(dd) "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;

(ee) "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;

(ff) "shot firer" means a person who possesses relevant certificate and is appointed as a shot firer in any Metalliferous mine;

(gg) "week" means the period between midnight on the Saturday night and midnight on the succeeding Saturday night; and

(hh) "worker" means any person employed in a Metalliferous mine to do any skilled or unskilled, manual or clerical work for hire or reward and includes permanent, probationer, badli, temporary, apprentices and contract workers and includes an employee, but does not include occupier and manager having the hiring and firing authority;

CHAPTER-II

Chief Inspector of Mines and Inspectors Metalliferous Mines

3. (1) Department may, by notification in the Official Gazette, appoint a duly Chief Inspector qualified person to be Chief Inspector of Mines for the whole of the Province and and Inspectors. duly qualified persons to be Inspectors, subordinate to the Chief Inspector.

(2) No person shall be appointed to be a Chief Inspector or an Inspector or having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any Metalliferous mine as such or mining rights in Sindh Province.

(3) The Chief Inspector and every Inspector in discharging of duties under this Act shall be deemed to be a public servant within the meaning of the Pakistan Penal Code (XLV of 1860).

4. (1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise Functions of by any Inspector named, or any class of inspectors specified, in the order of any Inspectors. power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare

the local area of areas within which, or the group of class Metalliferous mines with respect to which, Inspectors shall exercise their respective powers.

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

(3) The Chief Inspector or Inspectors shall conduct periodic or frequent inspections, if so required, of underground and surface Metalliferous mines to ensure that the provisions of this Act and of the regulations, rules and bye-laws and of any order made there under are complied with and that all the duties and responsibilities imposed upon the owner, agent, manager of the Metalliferous mine in term of this Act and of the regulations, rules and bye-laws and of any order made there under and in any other laws in the case of any Metalliferous mine are performed and complied with by the owner, agent and manager of the Metalliferous mine.

5. (1) The Chief Inspector and any Inspector may - Powers of Inspectors of

(a) make such examination and inquiry as he thinks fit in order to ascertain Metalliferous whether the provisions of this Act and of the regulations, rules and bye- Mines. laws and of any orders made thereunder are observed in the case of any Metalliferous mine;

(b) with such assistance, if any, as he thinks fit, enter, inspect, examine and survey any Metalliferous mine or any part thereof;

(c) examine into and make inquiry respecting the state and condition of any Metalliferous mine or any part thereof, the ventilation of the Metalliferous mine, the sufficiency of the bye-laws for the time being in force relating to the Metalliferous mine and all matters and things connected with or relating to the safety and health of the persons employed in the Metalliferous mine;

(d) take, whether on the precincts of the Metalliferous 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 plan or other documents, the keeping of which is prescribed, in order to see that they are in conformity with the provisions of this Act, 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 Metalliferous mine or his representative, take or remove, for the purpose of analysis, samples of materials and substances used or handled in the Metalliferous mine;

(g) conduct training and education programme relating to mining subjects, occupational health and safety, mine rescue techniques and demonstrate the use of safety equipment in the mining area.

(2) The Inspector shall develop and implement a robust inspection system for effective enforcement of this Act and rules made thereunder and to take actions against illegal mining activities.

(3) 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 enquiry into any incident or accident which has occurred at or in the Metalliferous mine or originated from machinery, plant, at or in the Metalliferous 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 Metalliferous mine.

6. Any person in the service of Government duly authorized by an special order Powers to in writing of the Chief Inspector or Inspector in this behalf may, for the purpose of special officer

surveying, leveling or measuring in any metalliferous mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine:

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

7. Every owner, agent and manager of Metalliferous mine shall afford the Chief Inspector and Inspectors and every person authorized under section 6, all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

8. (1) All copies of, and extracts from, registers or other records appertaining any Metalliferous mine, and all other information acquired by the Chief Inspector or Inspector or by any one assisting him, in the course of inspection of any Metalliferous mine under this Act or acquired by any person authorized under section 6 in the exercise of his duties thereunder shall be regarded as confidential and shall not be disclosed to any person other than Judicial Magistrate of First Class or a Commissioner for Workers' Compensation appointed under the Sindh Workers Compensation Act, 2015 (VII of 2016) or an official superior or the owner, agent or manager of the mine concerned, unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the safety of any persons.

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

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

9. The Chief Inspector or 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 or regulations made thereunder and shall not give any intimation to the owner of the Metalliferous mine or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

CHAPTER-III

Mining Boards and Committee

10. (1) Government may constitute a Metalliferous Mining Board consisting of -
(a) a person in the service of Government, not being a Chief Inspector or an Inspector, nominated by the Government to act as Chairman;

to enter for
survey, level or
measure in a
metalliferous
mine.

Facilities to be
afforded to
Inspectors.

Secrecy of
information
obtained.

Secrecy of source
of complaint.

Mining Board.

- (b) the Chief Inspector or an Inspector;
- (c) a person, not being the Chief Inspector or Inspector, nominated by Government;
- (d) one person nominated by owners of Metalliferous mines or their representatives in such manner as may be prescribed;
- (e) one person to represent the interest of miners, who shall be nominated in accordance with the following provisions:-
 - (i) if there are one or more registered trade unions having in the aggregate as members not less than one quarter of the miners, the said person shall be nominated by such trade union or trade unions in such manner as may be prescribed;
 - (ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than 500 miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as maybe prescribed and the other by Government;
 - (iii) if neither sub-clause (i) nor sub-clause (ii) is applicable, the said persons shall be nominated by Government.

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

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

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

11. (1) The Metalliferous Mining Board constituted under section 10 and Committee Powers of constituted under sub-section (3) may exercise such of the powers of an Inspector Metalliferous under this Act as it thinks necessary or expedient to exercise for the purpose of Mining Board. deciding or reporting upon any matter referred to it.

(2) The Metalliferous Mining Board and Committee shall have the powers of the civil court under the Code of Civil Procedure, 1908 (V to 1908) for the purpose of enforcing the attendance of witness and compelling the production of documents and material objects; and every person required by such Metalliferous Mining Board or Committee to furnish information before it, shall be deemed to be legally bound to do so with the meaning of section 176 of the Pakistan Penal Code (XLV of 1960).

(3) The Board may constitute the Committee(s) on any issue related to Metalliferous Mines from time to time.

12. The Department may direct that the expenses of any inquiry conducted by a Metalliferous Mining Board constituted under section 10 or by a Committee appointed under section sub-section (3) of section 11 shall be borne in whole or in the part by the owner or agent of the Metalliferous mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector of Mines or an Inspector to a Judicial Magistrate of First Class having jurisdiction at the place where the Metalliferous mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the Judicial Magistrate jurisdiction belonging to such owner or agent.

13. (1) Every Metalliferous mine shall be registered with the Chief Inspector in such manner and on payment of such fee as may be prescribed:

Provided that all Metalliferous mines existing immediately before the commencement of this Act shall be liable to be registered with the Chief Inspector in such manner and on payment of such fee as may be prescribed.

(2) No Metalliferous mine shall be operated unless it has been registered with the Chief Inspector.

(3) If any Metalliferous mine is found working without valid registration as required by this sub-section, the owner, manager or agent of such mine shall be deemed to have contravened the provisions of this section.

CHAPTER-IV Mining Operation and Management of Metalliferous Mines

14. (1) The owner, agent or manager of a Metalliferous mine shall, in the case of proposed mining operations, not less than fifteen days before the commencement of such operations, give to the Chief Inspector notice in writing in such form and containing such particulars as may be prescribed.

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

15. (1) Save as may be otherwise prescribed, every Metalliferous mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the Metalliferous mine, and the owner and agent of every Metalliferous mine shall appoint himself or some other person, having such qualifications, to be such manager.

Recovery of
expenses.

Registration of
Metalliferous
mines.

Notice before
commencement
of mining
operations.

Managers.

(2) No mining activity or the operation shall be allowed without the employment of qualified manager as required under sub-section (1).

(3) If any mine is found working without there being a manager for the Metalliferous mine as required by sub-sections (1) and (2), the owner and agent shall each be deemed to have contravened the provisions of this section.

16. (1) The owner, agent and manager of every Metalliferous mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provision of this Act, the regulations, rules and bye-laws and any orders made thereunder.

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

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

(a) that he was not in the habit of taking and did not in respect of the matter in question take any part in the management of the mine;

(b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and

(c) that the offence was committed without his knowledge, consent or connivance.

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

(4) The employer shall ensure that —

(a) adequate training and retraining programmes and comprehensible instructions are provided for workers, at no cost to them, on safety and health matters as well as on the work assigned;

(b) in accordance with national laws and regulations, adequate supervision and control are provided on each shift to secure the safe operation of the mine;

(c) a system is established so that the names of all persons who are underground can be accurately known at any time, as well as their

Duties and
responsibilities of
owners, agents
and managers.

probable location;

(d) all accidents and dangerous occurrences, as defined by national laws or regulations, are investigated and appropriate remedial action is taken; and

(e) a report, as specified by national laws and regulations, is made to the competent authority on accidents and dangerous occurrences.

(5) On the basis of general principles of occupational health and in accordance with national laws and regulations, the employer shall ensure the provision of regular health surveillance of workers exposed to occupational health hazards specific to mining.

(6) Whenever two or more employers undertake activities at the same mine, the employer in charge of the mine shall coordinate the implementation of all measures concerning the safety and health of workers and shall be held primarily responsible for the safety of the operations. This shall not relieve individual employers from responsibility for the implementation of all measures concerning the safety and health of their workers.

CHAPTER-V

Provisions to the health and safety

17. There shall be provided and maintained for every Metalliferous mine latrine and urinal accommodation of such kind on such scale, and such supply of water fit for drinking, as may be prescribed.

18. At every Metalliferous mine wherein more than one hundred persons are ordinarily employed, a canteen of such standard as may be prescribed shall be provided for the use of persons employed therein.

19. There shall be provided and maintained for use of persons working above ground in a Metalliferous mine, during intervals of rest, shelters of such standard and on such scale as may be prescribed.

20. At every Metalliferous mine, such supply of stretchers and of splint, bandages and other medical requirements as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

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

22. (1) If, in any respect when is not provided against by any express provision of

Conservancy.

Canteens.

Shelters.

Medical

Appliances.

First-aid rooms.

Powers of

this Act or the regulations, rules or bye-laws or any orders made thereunder, it appears to the Chief Inspector or Inspector that any metalliferous mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life, health or safety, or defective so to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the metalliferous mine and shall state in the notice the particulars in which he considers in metalliferous mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or Inspector may, in any area to which Department may by notification in the Official Gazette, declares that this sub-section applies, order in writing addressed to the owner, agent or manager of Metalliferous mine —

(a) prohibit the extraction or reduction of pillars in any part of the Metalliferous 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 Metalliferous mine, or if, in his opinion adequate provision against the outbreak of fire or flooding has not been made by providing for sealing off and isolation of the part of the Metalliferous mine in which such operation is contemplated and for restricting the area that might be affected, by a fire or flooding; and

(b) the provisions of sub-sections (4), (5), (6) and (7) shall apply to an order made under this sub-section as they apply to an order made under sub-section (3).

(3) If the Chief Inspector or Inspector authorized in this behalf by general or special order in writing, and the Chief Inspector is of opinion that there is urgent and immediate danger to the life, health or safety of any person employed in any Metalliferous mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit until the danger is removed, the employment in or about the metalliferous mine or part thereof any person where employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) Where an order has been made under sub-section (3) by an Inspector, the owner, agent or manager of the metalliferous mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector of Mines who may confirm, modify or cancel the order.

(5) The Chief Inspector or Inspector making a requisition under sub-section (1) or an order under-section (3), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (4) shall forthwith report the same

Inspectors when causes of danger not expressly provided against exist or when employment of person is dangerous.

to Department and shall inform the owner, agent or manager of the metalliferous mine that such report has been so made.

(6) If the owner, agent or manager of the Metalliferous mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (3), or sub-section (4), he may, within twenty days after the receipt of the notice containing the requisition of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to Department, which shall refer the same to a Committee.

(7) Every requisition made under sub-section (1), or order made under sub-section (3) or sub-section (4) to which objection is made under sub-section (6), shall be complied with pending the receipt at the mine of the decision of the Committee.

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision on the objection.

(8) Nothing in this section shall affect the powers of District Administration under section 144 of the Code Criminal Procedure, 1898 (5 of 1898).

23. (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, outbreak of fire or eruption or inrush of

water or other liquid matter; or

(c) an influx of inflammable, noxious gases or dust emission.

(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) on over-winding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised; or

(f) an electric shock or burn caused by contact with a conductor carrying more than 25 volts; or

(g) subsidence or land sliding in the mining area; or

(h) any other accident that may be prescribed, the owner, agent or the manager of the Metalliferous mine shall give notice of the occurrence to such authorities, in such form and within such time as may be prescribed;

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

(3) When an accident causing loss of life occurs, the place of accident shall not be disturbed or tampered with for three clear days from the date of such accident

Notice to be given
of accidents.

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.

(4) The Department may, by notification in the Official Gazette, direct that accidents other than those specified in sub-section (1) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours, shall be entered in a register in the prescribed form shall be subject to the provisions of sub-section (1).

(5) A copy of the entries in the register referred to in sub-section (4) shall be sent by the owner, agent or manager of the Metalliferous mine, within fourteen days after the 30th day of June and the 31st day of December in each year to the Chief Inspector.

(6) In taking preventive and protective measures, the employer shall assess the risk and deal with it in the following order of priority:-

(a) eliminate the risk;

(b) control the risk at source;

(c) minimize the risk by means that include the design of safe work systems; and

(d) in so far as the risk remains, provide for the use of personal protective equipment, having regard to what is reasonable, practicable and feasible, and to good practice and the exercise of due diligence.

(7) The Employer shall take all necessary measures to eliminate or minimize the risks to safety and health in mines under their control, and in particular —

(a) ensure that the mine is designed, constructed and provided with

electrical, mechanical and other equipment, including a communication system, to provide conditions for safe operation and a healthy working environment;

(b) ensure that the mine is commissioned, operated, maintained and decommissioned in such a way that workers can perform the work assigned to them without endangering their safety and health or that of other persons;

(c) take steps to maintain the stability of the ground in areas to which persons have access in the context of their work;

(d) whenever practicable, provide, from every underground workplace, two exits, each of which is connected to separate means of egress to the surface;

(e) ensure the monitoring, assessment and regular inspection of the working environment to identify the various hazards to which the workers may be exposed and to assess their level of exposure;

(f) ensure adequate ventilation for all underground workings to which access is permitted;

(g) in respect of zones susceptible to particular hazards, draw up and implement an operating plan and procedures to ensure a safe system of work and the protection of workers;

(h) take measures and precautions appropriate to the nature of a mine operation to prevent, detect and combat the start and spread of fires and explosions; and

(i) ensure that when there is serious danger to the safety and health of workers, operations shall be stopped and workers are evacuated to a safe location.

(8) The employer shall prepare an emergency response plan, specific to each mine, for reasonably foreseeable natural disasters.

(9) Where workers are exposed to physical, chemical or biological hazards the employer shall —

(a) inform the workers, in a comprehensible manner, of the hazards associated with their work, the health risks involved and relevant

preventive and protective measures;

(b) take appropriate measures to eliminate or minimize the risks resulting

from exposure to those hazards;

(c) where adequate protection against risk of accident or injury to health including exposure to adverse conditions cannot be ensured by other means, provide and maintain at no cost to the worker suitable protective equipment, clothing as necessary and other facilities defined by national laws or regulations; and

(d) provide workers who have suffered from an injury or illness at the workplace with first aid, appropriate transportation from the workplace and access to appropriate medical facilities.

24. (1) Where any person employed in a metalliferous mine contracts or is believed to have contracted any disease mentioned under section 27 as an occupational disease peculiar to any mining operation the owner, agent or the manager of the metalliferous 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 Chief Inspector may direct the Medical 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 concerned 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 Medical Inspector for the purpose of this section within such time as specified in the requisition by the Chief Inspector.

(3) If the Chief Inspector and Medical Inspector has reason to believe that any employee working in or at the Metalliferous mine has contracted a disease notified under sub-section (1) or disease contracted as a result of working in or at the Metalliferous mine in risky environment, the Chief Inspector or Medical 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 checkup and opinion for further investigation and treatment if deem necessary.

25. If Medical Inspector or medical specialist attends a person who is or has been employed in Metalliferous mine and who is or is believed by the Medical Inspector or medical specialist to be suffering from any disease notified under section 27, or disease resulted from working in risky environment or whenever the Medical Inspector suspects that any person medically examined or treated by him or medical specialist is suffering from disease or diseases listed under section 27, the Medical 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;

Notice of
occupational
diseases.

Report by
Medical
Inspector.

(b) medical checkup report duly signed and stamped by the physician 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 manager of the mine in which the patient was last employed.

26. (1) Where the report submitted under section 25 is confirmed to the satisfaction of the Chief Inspector through certificate issued by Medical Inspector or of a medical specialist that the employee is suffering from a disease or diseases notified under section 27, the expenses incurred by or on behalf of the patient suffering from occupational disease and the cost to keep the employee under observation if advised by the physician shall be recovered from the mine owners.

(2) The Chief Inspector if so advised by the Medical Inspector or by the medical specialist in writing, he may direct the owner, agent or manager of the Metalliferous 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.

27. The following shall be the occupational diseases for workers working in the Metalliferous mines:-

(a) pneumoconiosis;

(b) carcinoma of the lungs;

(c) nystagmus;

(d) dermatitis;

(e) heatstroke;

(f) carbon monoxide poisoning;

(g) loss of hearing acuity;

(h) tuberculosis;

(i) tunnel workers anemia;

(j) tetanus;

(k) silicosis;

(l) musculo-skeletal diseases; and

(m) any other disease as may be notified by Department from time to time.

28. The Medical Inspector shall, subject to the provisions of this Act, on application made in the prescribed manner by any employee, or owner, agent or 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 in manner as he deem fit and issue to such person a certificate of fitness in the prescribed form. The owner, agent or manager shall provide all kinds of facilities to carry out such medical examination

to determine the fitness of worker on such date, time and place fixed by the Chief Inspector of Mines Sindh or Medical Inspector.

Cost of medical examination and cost of medical expenses.

Occupational diseases.

Certificate of fitness, and medical examination.

29. (1) Every person who performs work in or about the Metalliferous 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 Metalliferous mine for purpose of work or employment in a mine unless he is in possession of medical fitness certificate issued by the Medical Inspector or registered medical practitioner.

30. (1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any metalliferous mine, the Department if it is of the opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the power of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Pakistan Penal Code (40 of 1860).

(3) A person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to Department stating the causes of the accident and its circumstances, and adding any observation which he or any of the assessors may think fit to make.

31. The Department may cause any report submitted by a Committee under sub-section (3) of section 11 and shall cause every report submitted by a court of inquiry under section 30 to be published at such time and in such manner as it may think fit.

CHAPTER-VI

Hours and Limitation of Employment

32. No person shall be allowed to work in a Metalliferous mine on more than six days in any one week.

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

(2) The periods of work of any such person shall be so arranged that, along with his intervals for rest, they shall not in any day spread over more than twelve hours,

Periodical
renewal of
medical
certificate of
fitness.

Power of
Department to

appoint court of inquiry in cases of accidents.

Publications of reports.

Weekly day of rest.

Hours of work above ground.

and that he shall not work for more than six hours before he has had an interval for rest of at least half an hour.

(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 subsection 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.

34. (1) A person employed below ground in a Metalliferous mine shall not be allowed to work for more than eight hours in any day.

(2) Work of the same kind shall not be carried on below ground in any Metalliferous mine for a period spreading over 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 the ground except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 46.

35. Where a worker works in a relay whose period of work extends over midnight the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and hours he has worked after midnight shall be counted towards the previous day.

36. No person shall be allowed to work in a Metalliferous mine who has already been working in any other mine within the preceding twelve hours.

37. (1) The manager of every Metalliferous mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays the time of the commencement and of the end of work for each relays. 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, if he so requires.

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

(3) No person shall be allowed to work in a metalliferous mine otherwise than in

Hours of work
below ground.

Special Provision
for night relays.

Prohibition of
employment of

certain persons.

Notice regarding
hours of works.

accordance with the notice required by sub-section (1).

38. (1) No woman shall be allowed to work in a mine between the hours of 7 P. M. and 6 A. M.

(2) 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.

39. Nothing in section 33, section 34, section 36, sub-section (3) of section 37, or in section 38 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 and welfare services or employed in any confidential capacity.

40. (1) In case of an emergency involving serious risk to the safety of the Metalliferous 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 Metalliferous mine as a result of breakdown of such machinery, plant or equipment, the manager may, subject to the provisions of section 22, permit persons to be employed in contravention of sections 32, 33, 34 and section 36 and sub-section (2) of section 34 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 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 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 Inspector concerned.

(3) When as a result to grant of an exemption to any Metalliferous mine from the provisions of section 32, 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 33 or section 34 may, with the prior approval of the Chief Inspector of Mines, be raised to not more than fifty-six hours in any week or ten

Employment of women.

Supervising staff.

Exemption from provisions regarding

employment.

hours in any day.

(5) In exceptional cases of pressure of work, the Chief Inspector may grant temporary exemption to a Metalliferous mine from the provisions of section 32, section 33 or section 34 for a period not exceeding ninety days in any calendar year, within the maximum limits of -

- (a) ten 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 (5), the Department 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 Metalliferous mines or on work which is essentially intermittent

41. (1) Where in a Metalliferous 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 -

- (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 traveling 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 Metalliferous mine is paid on a piece-rate basis, the Department in consultation with the employer concerned and the representatives of the persons employed in the Metalliferous 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

Extra wages for
overtime.

to be the ordinary rates of wages of such persons.

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

42. (1) No child shall be employed in a Metalliferous 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.

43. (1) No person who has not completed his eighteen years shall be employed in any part of a mine, unless -

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

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

44. No person who has not completed his eighteenth year shall be permitted to work in any part of a Metalliferous mine, either below ground or above ground unless the hours of work of such person for any day are so fixed as to allow an interval of rest of atleast twelve consecutive hours which shall include atleast such seven consecutive hours between the hours of 7 P. M. and 7 A. M. as may be prescribed:

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

Provided further that such person shall be granted a rest period of atleast thirteen consecutive hours between two working periods.

45. (1) If any question arises between the Chief Inspector or Inspector and the manager of any Metalliferous mine as to whether any person is a child or has not completed his eighteenth year the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or Inspector for decision to a Civil Surgeon.

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

Employment
of a child.

Young person's
not to be
employed without
certificates of
fitness.

Limitation of
working hours
for young
persons.

Dispute
as to age.

46. (1) For every Metalliferous mine, 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, CNIC, date of birth, the nature of his employment and address;

(b) the periods of work fixed for him;

(c) the intervals for rest, if any, to which he is entitled;

(d) the days of rest to which he is entitled; and

(e) where work is carried on by a system of relays, the relay to which he belongs.

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a Metalliferous mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

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

CHAPTER-VII

Leave and Holidays with Wages

47. Nothing in this Chapter shall affect any right or privilege to which a person employed in a Metalliferous mine has been entitled 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.

48. (1) Every regular employee who has completed one year of continuous service in a Metalliferous 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

Register of
employees.

Application of the
Chapter.

Annual leave with
wages.

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) Every casual daily wages employee who has completed one month of continuous service in a Metalliferous mine shall be allowed during the subsequent month leave with wages for a number of days calculated, at the rate of -

(a) one day for every seventeen days of performed below ground during the previous period of one month;

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

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

(3) If a person employed in a Metalliferous mine does not, in any such period of twelve months, take the leave to which he is entitled under sub-section (1) and (2) 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 Metalliferous mine for any reason shall be added to the credit of such person beyond the aforesaid limit.

(4) If a person entitled to leave under sub-section (1) and (2) 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 51 in respect of the leave.

(5) For the purpose of this section, a person shall be deemed to have completed a period of continuous service in a Metalliferous 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 layoff arising due to failure, refusal or inability of any owner on account of shortage of Metalliferous mineral, 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.

49. Every person employed in a Metalliferous mine shall be allowed, with wages, such festival holidays as are declared by Government to the public holidays.

50. Every person employed in a Metalliferous mine shall be entitled to ten days' casual leave in a year 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.

51. 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.

52. Any person who has been allowed leave for not less than four days under section 48 shall, before his leave begins, be paid the wages due for the period of the leave allowed.

53. Any Inspector may institute proceedings on behalf of any person who has been or is employed in a Metalliferous mine to recover any sum required to be, but not, paid by an owner, agent or manager in accordance with this Chapter.

CHAPTER-VIII

Establishment of Technical Institute and Employees Training

54. Government shall establish a central school of Metalliferous mine for the Province of Sindh in a specified area of such size and capacity as may be prescribed to produce technical hand of managerial, supervisory and skilled workers in different discipline connected with mining field.

55. Government shall establish a central survey institute for the Province of Sindh of such size and capacity as may be prescribed to produce competent surveyors required for exploration of minerals and development of mining industries.

Festival
Holidays.

Causal leave
and sick leave.

Wages during
leave or holiday
periods.

Payment in
advance in
certain cases.

Power of
Inspector to act
for workers.

Establishment of
school of
Metalliferous
mine.

Establishment of
survey institute.

56. (1) The Department may adopt strategies, arrange program of such form, scale and period as deem necessary to provide initial safety and health training from time to time to employees working in the Metalliferous mines.

(2) The owner, agent or manager of every Metalliferous mine shall afford all reasonable facilities to the 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.

57. Government shall, allocate sufficient amount in the annual budget and the amount so allocated shall be paid as stipend to the trainees in the manner as may be prescribed.

CHAPTER-IX

Hazards in the Occupational Environment and Environmental Protection

58. The owner, agent or manager of a Metalliferous mine shall ensure that workers are not exposed to airborne contaminants, harmful physical and chemical agents or other hazards present in the occupational environment and shall provide necessary protective provisions as may be prescribed.

59. Where dust is being produced during the course of operations in or about a Metalliferous mine, the manager shall make provisions for such dust to be controlled or suppressed.

60. The owner, agent or manager shall make suitable arrangements to control airborne dust at all working places, loading and tipping point, material transfer points, crushing stations and haulage roadways where hazards to persons may be created as a result of impaired visibility.

61. (1) No worker in any part of a Metalliferous mine shall be exposed to a daily noise level or peak noise level in excess of the standard laid down by the Chief Inspector, by notification, unless wearing an approved hearing protection device.

(2) The record shall be maintained by the manager of the Metalliferous mine of the noise level survey results and kept available at office of the mine.

62. The manager, owner or agent of the every Metalliferous mine shall take such measures as are reasonable practicable to minimize the adverse effects of vibration on workers' health.

63. (1) In every case where toxic gases or fumes are liable to be present or to escape from any furnace or other plant used in connection with any process or operation, the owner, agent or manager shall install approved devices to ensure that such fumes or toxic gases are neutralized, suppressed or otherwise rendered harmless and such

Employees
training.

Training
expenses.

Duty of owner
or agent of

Metalliferous
mines.

Control of dust in
Metalliferous

mines.

Control of
airborne dust.

Noise.

Vibration.

Harmful gases.

devices shall be operated at all times in an approved manner.

(2) In cases where waste gases are discharged into the atmosphere, the emissions should conform with the requirements of provisional laws or regulations, for the time being in force.

64. (1) The owner, agent or manager of Metalliferous mine shall ensure the introduction of a programme or plan of environmental management to be taken into account at every stage of a mining project from the feasibility study, through the planning and operational phases, upto the closure of the Metalliferous mine and during subsequent monitoring, in accordance with the provisions of this Act.

(2) The environmental management programme or plan for the Metalliferous mine shall provide —

(i) the siting of the mine;

(i1) the method of operation;

(ii) the evaluation and monitoring of discards;

(iv) the control of spontaneous combustion and air pollution from waste dumps; and

(v) a rehabilitation and closure plan.

CHAPTER X

Regulations, Rules and Bye-Laws

65. The Department may, by notification in the Official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely:-

(a) for prescribing the qualifications to be required by a person for appointment as the Chief Inspector or Inspector;

(b) for prescribing and regulating the duties and powers of the Chief Inspector and Inspectors with regard to the inspection of mines under this

Act;

(c) for prescribing the duties of owner, agents and managers of Metalliferous mines and of persons acting under them;

(d) for prescribing the qualifications of managers of mines and of persons acting under them;

(e) for prescribing the procedure for registration of Metalliferous mines and payment of fees thereof;

(f) for regulating the manner of ascertaining, by examination or otherwise,

Mine
occupational
environment.

Power of
Department
to make
regulations.

the qualifications of managers of Metalliferous mines and persons acting under them, and the granting and renewal of certificates of competency;

(g) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(h) for determining the circumstances in which and the conditions subject to which it shall be lawful for more Metalliferous mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;

(i) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of Metalliferous mines and persons acting under them and for the suspension and cancellation of certificates of competency;

G) for providing for the appointment in Metalliferous 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 officer;

(k) for regulating, subject to the provisions of the Explosives Act, 1884 (4 of 1884), and of any rules made thereunder, the storage and use of explosives;

(l) 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 Metalliferous mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines;

(m) for prohibiting, restricting or regulating the employment in Metalliferous 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;

(n) for providing for and regulating the training of persons before they are employed in Metalliferous mines and also during the period of employment at such intervals as may be prescribed;

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

(p) for providing for the safety of the persons employed in a Metalliferous

mine, their means of entrance there into and exit there from, the number of shafts or outlets to be furnished, and the fencing of shafts or outlets, pathways and subsidence;

(q) for prohibiting the employment in a Metalliferous mine either as manager or in any other specified capacity of any persons except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine.

(r) for providing for the safety of the roads and working place in

Metalliferous mines, including the setting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;

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for prescribing the size of travelling roads in a Metalliferous mine, through which load is carried by human agency and limit of load and the distance to which it is carried;

(t) for providing for and regulating the inspection of workings, disused working and sealed off fire areas in Metalliferous 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;

(u) for providing for and regulating the ventilation of Metalliferous mines and the action to be taken in respect of ionizing radiations, radioactive, gases and dust, fire and inflammable and noxious gases;

(v) for providing for the care, and regulation of the use, of all machinery, plant, equipment and material in Metalliferous mines;

(w) for providing for the safety of persons present on haulage roads in Metalliferous mines and for prohibiting, restricting or regulating the use of certain classes of locomotive underground;

(x) 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 Metalliferous mine for the prescribed prohibited articles;

(y) for prescribing protective equipment and clothing and breathing apparatus for all persons or classes of persons employed in Metalliferous mines or classes of mines and requiring and regulating the use of such protective equipment, clothing and apparatus;

(z) for providing against explosions or ignitions or eruptions of or accumulations of water in Metalliferous 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 eruptions of water or ignitions in mines;

(aa) for 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 regulations, to be furnished by owners, agents or managers of Metalliferous mine, 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;

(bb) for prescribing the form of, the authorities to whom, and the time within which, the notice required by sub-section (1) of section 24 shall be sent by the owner, agent or manager of a Metalliferous mine, and the fees to be;

(cc) for prescribing the plans to be kept by owners, agents and managers of Metalliferous mines and the manner and places in which such plans are to be kept for purposes of record;

(dd) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about Metalliferous mines;

(ee) for prescribing the form of, and the particulars to be contained in the notice to be given by the owner, agent or manager of a Metalliferous mine under section 14; and

(ff) for prescribing the notice to be given, by the owner, agent or manager of a Metalliferous mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of Railways Act, 1890 (9 of 1980), or of any public work or classes of public works which the Government may by general or special order, specify in this behalf.

66. Government may, by notification in the Official Gazette, make rules Power of consistent with this Act for all or any of the following purposes, namely:- Government to make rules.

(a) for providing for the appointment of Chairman and members of Metalliferous Mining Boards, and for regulating the procedure of such Board;

(b) for prescribing the form of the register referred to in sub-section (4) of section 23;

(c) for requiring facilities and security of services to be provided to

managers of Metalliferous mines and other under them for enabling them to efficiently discharge their duties;

(d) for providing for the appointment of courts of inquiry under section 30,

for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;

(e) for requiring the maintenance in Metalliferous mines wherein any

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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;

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 Metalliferous 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;

(g) 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 therefore and the representation of the persons employed in the Metalliferous mines in the management of such canteens;

(h) for prescribing the scale of latrine and urinal accommodation to be

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provided at Metalliferous 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 therefor, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

for prescribing the forms of notices required under section 37, and for requiring such notices to be posted also in specified vernaculars;

to fix seven consecutive hours between 7 p.m. and 7 a. m. for the purpose of section 44;

(k) to specify the circumstances in which and conditions in accordance with

which a young person may be employed or permitted to work as an

apprentice or for the purposes of receiving vocational training in a Metalliferous mine for the purposes of the proviso to section 44;

(1) for defining the persons who shall, for the purpose of section 39, be deemed to be persons holding positions of supervision or management or employed in confidential capacity;

(m) for prohibiting the employment in Metalliferous mines of persons or any class of persons who have not been certified by a medical Inspector to have completed his eighteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

(n) for prescribing the form of the certificates of fitness required by section 43 and the circumstances in which such certificates may be granted and revoked;

(o) prescribing the form of registers required by section 46;

(p) 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;

(q) for prescribing the forms in which record of applications for leave, the grant or refusal thereof and the payment of wages during leave and holidays with wages is to be kept;

(r) for prescribing abstracts of this Act and of the regulations and rules and the vernacular in which the abstracts and bye-laws shall be posted as required by sections 70 and 71;

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for requiring the fencing of any Metalliferous 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;

(t) for the protection from injury, in respect of any Metalliferous mine when the workings are discontinued, of property vested in Government or any local authority or railway company as defined in the Railways Act, 1890 (9 of 1890);

(u) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents, and managers of mines, 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

(v) generally to provide for any matter not provided for by this Act or the regulations, provisions for which is required in order to give effect to this Act.

67. Government may, by notification in the Official Gazette, make rules under this section -

(a) requiring establishment of central rescue stations for groups of specified Metalliferous mines, and prescribing how and by whom such, stations shall be established;

(b) providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities which shall include representatives of the owners and managers of and of the miners employed in, the Metalliferous mines or groups of Metalliferous mines concerned charged with such management;

(c) prescribing the position, equipment, control maintenance and functions of control rescue stations;

(d) providing for the formation, training, composition and duties of rescue brigades; and

(e) providing generally for the conduct of rescue work in Metalliferous mines;

(f) providing for the levy and collection of a duty of excise at a rate not exceeding four rupees per ton in Metalliferous minerals produced in and dispatched from mines specified under clause (a) in any group or included under clause (a) in any specified area, the utilization of the proceeds thereof for the creation of a Central Rescue Station Fund for such group or area and the administration of such funds.

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

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act 1897 (10 of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information,

(3) Before the draft of any regulation is published under this section it shall be referred to Metalliferous Mining Board, constituted under this Act and the

Power of the
Government to
require rescue
stations to be
established.

Prior publication
of regulations and

rules.

regulations shall not be published until the Metalliferous Mining 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 Metalliferous Mining Board constituted under this Act and unless the Metalliferous Mining Board has had a reasonable opportunity of reporting as to the expediency making the same and as to the suitability of its provisions.

(5) The Regulations and rules shall be published in the Official Gazette and, on such publication, shall have affect as if enacted in this Act.

(6) The provision 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 66 are made.

69. Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 68, regulations under clause (k) and clause (p) to (dd) inclusive of section 65 may be made without previous publication, 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 regulations to dispense with the delay that would result from such publication:

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

70. (1) The owner, agent or manager of a Metalliferous mine may, and shall if called upon to do so by the Chief Inspector of Mines or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the Metalliferous mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the Metalliferous mine.

(2) If any such owner, agent or manager -

(a) fails to submit within two months a draft of bye-law after being called upon to do so by the Chief Inspector or Inspector; or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient, the Chief Inspector or Inspector may-

(i) propose, a draft of such bye-laws as appear to him to be sufficient; or

(11) propose such amendments in any draft submitted to him by the owner,

Power to make regulations without previous publication.

Bye-laws.

agent or manager as will, in his opinion render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, or agent or manager under the provisions of the sub-sections (2), the Chief Inspector or Inspector and the owner, agent or manager, are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Metalliferous Mining Board or, where there is no Metalliferous Mining Board, such officer or authority as Department may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to Department for approval.

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

(c) Before the Department approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Department may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Department.

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

- (i) the specific, grounds of objection; and
- (ii) the omissions, additions and modifications asked for.

(e) The Department shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Department shall have effect as if enacted under this Act, and the owner, agent or the manager of the Metalliferous mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed, and as often as the same became defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable dispatch.

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

71. There shall be kept posted up or near every Metalliferous mine in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of this Act and the regulations and rules.

CHAPTER XI

Penalties and Procedure

72. (1) Whoever obstructs the Chief Inspector, Inspector or any person authorized under section 6 to discharge his duties under this Act, or refuses or willfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, safety and examination, measuring, surveying, taking samples, checking instruments, safety appliances, machinery or inquiry authorized by or under this Act in relation to any Metalliferous mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred thousand rupees but not less than fifty thousand rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector or Medical Inspector any registers underground or surface Metalliferous mine plan 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 fifty thousand rupees but not less than thirty thousand rupees.

723. 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 Metalliferous mine; or

(d) falsifies any plan or register or record the maintenance of which is required by or under this Act;

(e) makes, gives or delivers any plan, return, notice, record or report

Posting up of
extracts from
Act, regulations,
etc.

Obstruction.

Falsification of

records, etc.

containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred thousand rupees but not less than twenty five thousand, or with both.

74. If owner, agent, manager of a Metalliferous mine, or any person authorized by the owners in writing fail to furnish in the prescribed form or manner or at or within the prescribed time any underground or surface map, plan, section, return, notice, register, mine or quarry registration certificate of Metalliferous mine or quarry, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to one hundred thousand rupees but not less than twenty five thousand rupees.

75. Whoever save as permitted by section 40 contravenes any provision of this Act or of any regulation, rule or bye-law or any order made thereunder prohibiting, restricting or regulating the employment, or presence of persons in or about a Metalliferous mine shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one hundred thousand rupees but not less than twenty five thousand rupees, or with both.

76. Whoever in contravention of the provision of section 15, fails to appoint a Metalliferous mine manager, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one hundred thousand rupees but not less than fifty thousand rupees, or with both.

77. Whoever in contravention of the provision of section 16, fails to carry on the duties in the Metalliferous mine shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to fifty thousand rupees but not less than twenty thousand rupees or with both.

78. (1) Whoever, in contravention of the provisions of sub-section (1) of section 23 fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to one hundred thousand rupees or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred thousand rupees but not less than thirty thousand rupees, or with both.

(2) Whoever in contravention of a direction made by Government under sub-section (4) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence, shall be punishable with fine which may extend to fifty thousand rupees but not less than thirty thousand rupees.

79. Whoever contravenes any provisions of this Act or any regulation, rule or bye-law or any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to two

Omission to
furnish plans, etc.

Contraventions of
provisions
regarding
employment of
worker.

Failure to appoint
manager.

Failure to carry
on duties in the
Metalliferous
mines.

Notice of
accidents.

Disobedience of
orders.

hundred thousand rupees but not less than fifty thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to five thousand rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

80. (1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to three hundred thousand rupees but not less than one hundred thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to one month, or with fine which may extend to one hundred thousand rupees but not less than twenty five thousand rupees, or with both; or, if such contravention otherwise causes injury, or danger to workers or other persons in or about the Metalliferous mine with imprisonment which may extend to one month, or with fine which may extend to seventy five thousand rupees but not less than twenty thousand rupees or with both.

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

(3) Any Court imposing, confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

81. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), it shall be lawful for a Judicial Magistrate of the First class to pass a sentence of fine exceeding fifty thousand rupees authorized by this Act on any person convicted of an offence thereunder.

82. No prosecution shall be instituted against any owner, occupier, agent or manager for any offence under this Act except at the instance of the Chief Inspector or Inspector authorized in this behalf by general or special order in writing by the Chief Inspector.

83. No court shall take cognizance of any offence under this Act unless a complaint thereof has been made -

(j) within six months of the date on which the offence is alleged to have been committed; or

Contravention of
law with
dangerous
results.

Special provision
regarding fine.

Prosecution of
owner, occupier,
agent or
manager.

Limitation of
prosecution.

- (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 Department under section 30 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.

84. No Court inferior to that of a Judicial Magistrate of the First Class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a Metalliferous mine or any offence which is by this Act made punishable with imprisonment.

85. 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 Metalliferous mines.

86. (1) If the Court trying any case instituted at the instance of the Chief Inspector or Inspector under this Act is of opinion that the case is one which should in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings and report the matter to the Department with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Department may refer the case to the Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER XII

Miscellaneous

87. If any question arises as to whether any excavation or working is a Metalliferous mine within the meaning of this Act, the Department may decide the question on the findings of Chief Inspector of Mines and a certificate signed by him, which shall be conclusive on the point.

88. (1) Government on the recommendations of the Department may, by notification in the Official Gazette, exempt either absolutely or subject to any specified conditions any local area or any Metalliferous mine or group or class of Metalliferous mines or any part of a such mine or any class of persons from the operation of all or any specified provisions of this Act:

Provided that no local area or Metalliferous mine or group or class of Metalliferous mines shall be exempted from the provisions of section 42 unless it is also exempted from the operation of all the other provisions of this Act.

Provided further that no exemption from the operation of the provisions of section 38 shall be granted unless, in case of an emergency, the national interest so requires and the employers and workers organization have been consulted.

Cognizance of Offences.

Continuance of

liability.

Reference to Mining Board or

Committee in lieu
of prosecution in
certain cases.

Decision of
question whether
a mine is under
this Act.

Power to exempt
from operation of
Act.

Provided further that no exemption from the operation of the provisions of section 33 or section 34 or section 41 shall be granted except in the event of war or other emergency threatening the national safety.

89. Government or Department, as the case may be, may reverse or modify any order passed under this Act.

90. This Act shall apply to Metalliferous mines belonging to Government.

91. —_No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

92. (1) The provisions of Mines Act, 1923 (Act IV of 1923) relating to Metalliferous Mines, in its application to the extent of the Province of the Sindh are hereby repealed.

(2) Notwithstanding the repeal under sub-section (1), anything done, action taken, regulations, rules, bye-laws or orders made under the repealed 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 shall have effect accordingly.

Power to alter or
rescind orders.

Application of Act
to Government

mines.

Indemnity.

Repeal and
Saving.

BY ORDER OF MADAM ACTING SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ
SECRETARY

PROVINCIAL ASSEMBLY OF SINDH