

This Act is current to 30 November 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

MINES ACT

[RSBC 1996] CHAPTER 293

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Definitions

1 In this Act:

"abandoned mine" means a mine for which all permit obligations under this Act have been satisfied and in respect of which the mineral claims have reverted to the government;

"agent" means a person having control of a mine on behalf of the owner;

"authorized person" means a qualified person appointed or designated by the manager to perform specified duties;

"chief inspector" means the Chief Inspector of Mines appointed by the minister and includes a person designated by the chief inspector to act on behalf of the chief inspector;

"closed mine" means a mine at which all mining activities have ceased but in respect of which the owner, agent, manager or permittee remains responsible for compliance with this Act, the regulations, the code and that person's obligations under the permit for that mine;

"code" means the health, safety and reclamation code established under this Act;

"cultural heritage resource" means a cultural heritage resource as defined in the Mineral Tenure Act;

"detrimental environmental impact" occurs when the quality of air, land or water substantially reduces the usefulness of the environment or its capacity to support life;

"inspector" means a person appointed by the chief inspector as an inspector of mines;

"local union" means a union certified under the Labour Relations Code as the bargaining agent for employees or a unit of employees at a mine;

"management" means employees of a mine who act as supervisors;

"management co-chair" means the co-chair chosen for the occupational health and safety committee by the manager;

"manager" means the person appointed under section 21 to be responsible for the management and operation of a mine;

"mine" includes

- (a) a place where mechanical disturbance of the ground or any excavation is made to explore for or to produce coal, mineral bearing substances, placer minerals, rock, limestone, earth, clay, sand or gravel,
- (b) all cleared areas, machinery and equipment for use in servicing a mine or for use in connection with a mine and buildings other than bunkhouses, cook houses and related residential facilities,
- (c) all activities including exploratory drilling, excavation, processing, concentrating, waste disposal and site reclamation,
- (d) closed and abandoned mines, and
- (e) a place designated by the chief inspector as a mine;

"mining activity" means any activity related to

- (a) the exploration and development of a mineral, a placer mineral, coal, sand, gravel or rock, or
 - (b) the production of a mineral, a placer mineral, coal, sand, gravel or rock,
- and includes the reclamation of a mine;

"occupational health and safety committee" means the joint worker management committee established for each mine under this Act;

"owner" includes every person who is the immediate holder, proprietor, lessee, occupier or permittee of a mine or of any part of it, but does not include a person who

- (a) receives only a royalty or rent from a mine that is subject to a lease, grant or other authority for its working, or
- (b) is the owner of the surface rights of land in, on or under which a mine exists but who is not the immediate holder, proprietor, lessee, occupier or permittee;

"permit" means a permit issued under section 10;

"permittee" means the holder of a permit issued under section 10;

"qualified person" means a person who, in the opinion of the manager, is

(a) qualified because of the person's knowledge, training and experience to design, organize, supervise and perform the duties for which the person is appointed,

(b) familiar with the provisions of this Act, the code and the regulations that apply to the duties for which the person is appointed, and

(c) capable of identifying any potential or actual danger to health or safety in the workplace;

"supervisor" means a person who instructs, directs or controls workers in the performance of their duties and who is authorized by the manager to take or recommend disciplinary action against workers;

"worker" means a person who is an employee but does not include a supervisor;

"worker co-chair" means the co-chair chosen for the occupational, health and safety committee by the workers;

"workplace" means a place where work is carried out in, on or about a mine.

Application

2 This Act applies to all mines during exploration, development, construction, production, closure, reclamation and abandonment.

Chief inspector

3 The minister must designate in writing a person appointed under the Public Service Act, as the Chief Inspector of Mines.

Authority

4 The chief inspector has the rights and powers conferred on an inspector under this Act.

Power to appoint inspectors

5 The chief inspector may appoint persons as inspectors for the purposes of this Act.

Delegation of powers

6 The chief inspector may delegate in writing to an inspector any of the powers conferred on the chief inspector under this Act.

Accident investigations

7 An inspector may, and on the direction of the chief inspector must, make an investigation of and report about an accident that has caused serious personal injury, loss of life or property or environmental damage.

Power to compel persons to answer questions and order disclosure

8 (1) For the purposes of conducting an investigation under section 7, an inspector may make an order requiring a person to do either or both of the following:

(a) attend, in person or by electronic means, before the inspector to answer questions on oath or affirmation, or in any other manner;

(b) produce for the inspector a record or thing in the person's possession or control.

(2) An inspector may apply to the Supreme Court for an order

(a) directing a person to comply with an order made under subsection (1), or

(b) directing any directors and officers of a person to cause the person to comply with an order made under subsection (1).

Contempt proceeding for uncooperative person

8.1 The failure or refusal of a person subject to an order under section 8 to do any of the following makes the person, on application to the Supreme Court by an inspector, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court:

- (a) attend before the inspector;
- (b) take an oath or make an affirmation;
- (c) answer questions;
- (d) produce records or things in the person's possession or control.

Advisory committee

9 The chief inspector must establish and chair an advisory committee and must establish regional advisory committees to review applications for mine approvals and reclamation permits, referred to them by the chief inspector, to assist the chief inspector in carrying out the duties of the chief inspector under this Act.

Permits

10 (0.1) In this section, "exempt person" means a person in a class of persons exempt under subsection (1.1)

(a) from the requirement under subsection (1) to hold a permit.

(1) Before starting any work in, on or about a mine, the owner, agent, manager or any other person must hold a permit issued by the chief inspector and, as part of the application for the permit, there must be filed with an inspector a plan outlining the details of the proposed work and a program for the conservation of cultural heritage resources and for the protection and reclamation of the land, watercourses and cultural heritage resources affected by the mine, including the information, particulars and maps established by the regulations or the code.

(1.1) The Lieutenant Governor in Council, by regulation and on any terms and conditions considered necessary or advisable, may exempt

- (a) one or more classes of persons, or
- (b) a person or a ministry of the government respecting one or more classes of work in, on or about a mine from the requirement under subsection (1) to hold a permit.

(1.2) Despite subsection (1.1) (a), the chief inspector may require an exempt person to comply with the requirement under subsection (1) to hold a permit if the chief inspector is satisfied that, because of the nature of the proposed work, it is necessary for the exempt person to hold a permit.

(2) The chief inspector, in writing and on any terms and conditions considered necessary or advisable, may exempt a person from the requirement under subsection (1) to hold a permit if

- (a) the chief inspector is satisfied that, because of the nature of the proposed work, it is not necessary for the person to hold a permit, and
- (b) the person is not an exempt person.

(2.01) Without limiting subsection (1.1) or (2), terms and conditions imposed under those subsections may include terms and conditions respecting any or all of the following:

- (a) the provision of security in the manner and for purposes similar to those described in subsections (4) and (5);
- (b) notification and reporting requirements;
- (c) the use of qualified professionals;
- (d) environmental protection and reclamation;
- (e) public health and safety.

(2.02) A person exempt from the requirement under subsection (1) to hold a permit must comply with the terms and conditions, if any, imposed under subsections (1.1), (2) and (2.01), as applicable.

(3) If the chief inspector considers the application for a permit is satisfactory and if the applicant has complied with the regulations, if any, made under section 38 (2) (1) respecting applications for permits, the chief inspector may issue the permit, and the permit may contain conditions that the chief inspector considers necessary.

(4) The chief inspector may, as a condition of issuing a permit under subsection (3), require that the owner, agent, manager or permittee give security in the amount and form, and subject to conditions, specified by the chief inspector

- (a) for mine reclamation, and
- (b) to provide for protection of, and mitigation of damage to, watercourses and cultural heritage resources affected by the mine.

(5) If required by the chief inspector, the owner, agent, manager or permittee, in each year, must deposit security in an amount and form satisfactory to the chief inspector so that, together with the deposit under subsection (4) and calculated over the estimated life of the mine, there will be money necessary to perform and carry out properly

(a) all the conditions of the permit relating to the matters referred to in subsection (4) at the proper time, and
(b) all the orders and directions of the chief inspector or an inspector respecting the fulfillment of the conditions relating to the matters referred to in subsection (4).

(6) The owner, agent, manager or permittee, or an inspector, may apply to the chief inspector for a revision of the conditions or an extension of the term of a permit issued under this section, and the chief inspector, if the applicant has complied with the regulations, if any, made under section 38 (2) (1) respecting revisions or extensions under this subsection, may revise the conditions or extend the term, as the case may be.

(7) For the purposes of subsection (6), if the chief inspector considers it necessary, the chief inspector may impose additional conditions or changes in the existing conditions, including changes to the security required or the term of the permit, with or without an application under this section.

(8) If the owner, agent, manager or permittee fails to perform and complete the program for reclamation or comply with the conditions of the permit to the satisfaction of the chief inspector, the chief inspector, after giving notice to remedy the failure, may do one or more of the following:

(a) order the owner, agent, manager or permittee to stop the mining operation;

(b) apply all or part of the security toward payment of the cost of the work required to be performed or completed;

(c) close the mine;

(d) cancel the permit.

(9) [Repealed 2014-14-52.]

(10) [Repealed 2002-25-46.]

Permits — powers of minister

11 If the minister considers it to be necessary in the public interest, the minister, in respect of the issuing of permits, has and may exercise all the powers that the chief inspector may exercise under this Act.

Acquisition of a mine

11.1 If a person acquires a mine, before the person engages in mining activity the person must apply to the chief inspector to

(a) obtain a permit, or

(b) amend an existing permit for the mine to identify the applicant as the holder of the permit.

Mine reclamation fund

12 (1) In this section, "fund" means the mine reclamation fund.

(2) The Lieutenant Governor in Council may, by regulation, establish a fund to be known as the mine reclamation fund into which must be paid security, that is in the form of money, given by the owner, agent or manager of a mine under section 10.

(3) Money received from an owner, agent or a manager must be credited to a separate account in the fund in the name of the mine.

(4) The minister may requisition payments from an account in the fund

(a) to refund money and interest earned on it to the owner, agent or manager of a mine from time to time if in the opinion of the chief inspector it is no longer required for mine reclamation and protection of, and mitigation of damage to, land and watercourses affected by the mine, or

(b) to pay for the cost of work required under section 10 (8) (b).

Variance of regulations or code for individual mine

13 (1) On receiving a written application from the manager, the occupational health and safety committee or the local union requesting the suspension or variance of a provision of the regulations or of the code, the chief inspector may suspend or vary the provision if the chief inspector is of the opinion that the provision does not operate in the best interest of, or is not necessary to, health and safety in an individual mine.

(2) The chief inspector must ensure that the parties affected by the application are advised of the application for, and the subsequent decision respecting, a variance.

(3) The chief inspector must maintain a register of all variances.

(4) At least once every 5 years, the chief inspector

(a) must review each variance and advise the manager, occupational health and safety committee and local union that the chief inspector intends to review the variance, and

(b) after reviewing any submissions, must advise them whether or not the variance is to continue.

Discrimination

14 (1) Each manager must ensure that no employee is discriminated against in any manner, including adversely affecting any term or condition of employment, for complying with this Act, the regulations or the code.

(2) If advised in writing of an alleged case of discrimination against an employee for complying with this Act, the regulations or the code or refusing to work because it would result in a contravention of this Act, the regulations or the code, the chief inspector must investigate and report the findings to the manager and occupational health and safety committee, and the local union, if any.

(3) If the chief inspector is satisfied that the allegation is true, the chief inspector may make one or more orders requiring the employer to do one or more of the following:

(a) cease the discrimination;

(b) hire or reinstate the employee;

(c) pay the employee any wages lost by reason of the discrimination;

(d) pay the employee reasonable and actual out of pocket expenses incurred by the employee by reason of the discrimination.

Inspections

15 (1) At any time an inspector may inspect

(a) a mine, or

(b) a site considered by the inspector to be a mining activity site that is operating without a permit.

(2) If an inspector is making a health and safety inspection, on arrival at the mine the inspector must request the manager to arrange for the worker co-chair or designate and the management co-chair or designate each to appoint a representative to accompany the inspector on the inspection.

(3) Despite subsection (2), an inspector may perform the inspection without either or both management and worker representatives, if on completion of the inspection the inspector meets with or otherwise communicates with each co-chair or each designate of a co-chair to discuss the inspector's findings and their occupational, health and safety concerns, if any.

(4) An inspector must complete an inspection report within 7 days and promptly provide the manager, and, in the case of a health and safety inspection, the occupational health and safety committee and local union with a copy of the inspection report on its completion, and the report must

(a) list the workplaces inspected,

(b) note any contraventions of an order under this section,

(c) note any contraventions of the Act, the regulations, the code or a permit, and

(d) order remedial action, specify the results to be obtained by the remedial action and specify time limits for compliance with the order or any provision of the Act, the regulations, the code or a permit.

(4.1) If an inspector believes on reasonable grounds that a person has contravened or is contravening an order under this section or a provision of the Act, the code, the regulations or a permit and that the contravention has a detrimental environmental impact, the inspector may order the owner, agent, manager, permittee or any other person apparently in charge in, on or about a mine to do any of the following:

(a) take immediate remedial action;

(b) suspend regular work until remedial action is taken;

(c) close the mine or part of it until remedial action is taken.

(4.2) An order under this section may be made against an owner, agent, manager, permittee, contractor or other person who carries out mining activity without a permit.

(5) If an inspector is of the opinion that a delay in remedying a hazard would be dangerous to persons or property, the inspector must issue an order

(a) for immediate remedial action,

(b) to suspend regular work until remedial action is taken, or

(c) to close the mine or part of it until remedial action is taken.

(6) Within 15 days after receiving the inspection report, the manager must

(a) submit a written report outlining the remedial steps taken and the work still outstanding, and

(b) promptly provide a copy to the inspector, and, in the case of health and safety matters, the occupational health and safety committee and the local union.

(7) The owner, agent, manager, permittee, and all persons in, on or about a mine must provide an inspector with all assistance necessary for the completion of an inspection or investigation.

Order not to interfere with public works, etc.

16 An inspector may order the operation of a mine to be conducted in a manner that will not interfere with a public work, public service, public utility, highway or railway, or with a pipeline as defined in section 1 (2) of the Oil and Gas Activities Act or an adjacent mine property.

Abandoned mine

17 (1) If an inspector is of the opinion that work may be necessary in, on or about a closed or abandoned mine in order to avoid danger to persons or property or to abate pollution of the land and watercourses affected by the mine, the inspector may enter on or below the surface of the mine and may cause work to be done to remove or alleviate the danger or remedy the pollution.

(2) The costs incurred for work done under this section must be paid from the consolidated revenue fund without an appropriation other than this subsection.

(3) The amount expended plus interest at a prescribed rate is a debt due to the government and forms a lien and charge on the mine or mineral title in favour of the government.

(4) Notice of the debt in the prescribed form may be registered as a charge in the land title office or in the office of the chief gold commissioner, and no transfer of title or other dealing with the mine may take place until the debt is paid and the notice cancelled.

(5) With or without payment and on conditions the minister may impose, the minister may cancel the notice registered under subsection (4) and, on that happening, the mine may be transferred or otherwise dealt with.

Engineering report

18 An inspector may order the owner, agent or manager to provide at the owner's expense an independent study prepared by an engineer or other licensed professional acceptable to the inspector

(a) respecting health and safety at the mine or safety of its equipment, buildings, workings or structures, or
(b) in connection with an accident or a dangerous occurrence that the inspector is investigating.

Immunities

19 (1) No action for damages may be brought against the chief inspector or an inspector because of anything done or omitted in good faith

(a) in the performance or intended performance of any duty under this Act, or

(b) in the exercise or intended exercise of any power under this Act.

(2) Subsection (1) does not absolve the government from vicarious liability for an act or omission of the chief inspector or an inspector for which act or omission the government would be vicariously liable if this section were not in force.

Repealed

20 [Repealed 2007-15-80.]

Appointment of manager

21 An owner or agent must,

(a) before work begins, appoint a manager and ensure that there is a person acting in that capacity at all times,

(b) immediately after each appointment, notify the inspector in writing, of the name of the manager, and

(c) provide the manager or the manager's designate with every facility for conducting the operation of the mine in accordance with the requirements of this Act, the regulations and the code.

Manager's qualifications and responsibility

22 (1) Each manager and designate must possess qualifications established by the regulations or the code.

(2) The manager or designate must attend daily at an operating mine.

Manager's absence

23 Each manager must appoint a qualified person to be responsible during the manager's absence to ensure compliance with this Act, the regulations, the code and the permit.

Compliance

24 (1) The owner, agent or manager must take all reasonable measures to ensure compliance with this Act, orders issued under it, the regulations and the code.

(2) Every supervisor and employee must take all reasonable measures to ensure that the requirements of this Act, the regulations, the code and orders applicable to the work they perform or over which they have supervision are followed.

Contractors

25 (1) If work in or about a mine is let to a contractor, the contractor and the contractor's manager, as well as the owner, agent and manager of the mine, must take all reasonable measures to ensure compliance with the provisions of this Act, the regulations, the code, the permit and orders under this Act pertaining to the work over which they have control.

(2) In a case of noncompliance with subsection (1), the contractor and the contractor's manager commit an offence that is punishable in the same manner as if the contractor and contractor's manager were the owner, agent or manager of the mine.

Supervision required

26 Each manager must ensure that every person employed at a mine, if required by the regulations or the code, is under the daily supervision of a person who holds a valid and appropriate certificate as required by the regulations or the code.

Mine plans

27 Each manager must keep in the office at the mine site accurate plans that

- (a) are updated every 3 months,
- (b) are prepared on a scale that accords with good engineering practice, and
- (c) contain particulars established by the regulations or the code.

Repealed

28 [Repealed 2003-1-14.]

Alternative employment

29 If an inspector makes an order under section 15 (5) (b) or (c), and the manager is unable to provide alternate employment, the manager must pay or cause to be paid to each worker the amount that the worker would have earned or been likely to earn for each day the closure continues, up to a maximum of 3 working days.

Posting of reports and orders

30 (1) Each manager must post in a conspicuous place at the mine all inspection reports and orders issued by an inspector and must maintain them there for 30 days.

(2) Each manager must ensure that all documents required to be posted are maintained in a legible condition.

Repealed

31 [Repealed 2003-1-15.]

Occupational health and safety committee

32 (1) Each manager must ensure that an occupational health and safety committee is established in accordance with the regulations or the code.

(2) A manager must allow committee members to participate in inspections, investigations and meetings of the committee under this Act, and that participation must be considered as time worked.

Appeal to chief inspector

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

(2) The manager, occupational health and safety committee and local union must be given an opportunity to make a submission on the matter of the appeal, receive copies of all submissions and be notified of the chief inspector's decision on the appeal.

(3) An appeal taken under this section does not operate as a stay or suspend the operation of the decision being appealed unless the chief inspector orders otherwise.

Health, safety and reclamation code committee

34 (1) The minister must establish a health, safety and reclamation code committee consisting of the members the minister appoints.

(2) The chief inspector is a member and the chair.

(3) The committee must prepare a code dealing with all aspects of health, safety and reclamation in the operation of a mine and may amend the code from time to time as required.

(4) A provision of the code may specify that the approval or consent of an inspector or some other person is required before a specified action may be taken.

(5) Without limiting subsection (4), the code may require approval or consent before a specified type of equipment is used at a mine or continues to be used in specified circumstances.

(6) The code and any amendments to it come into force on approval of the Lieutenant Governor in Council.

(7) If there is a conflict between a provision of the code and a provision of the regulations, the regulations apply.

(8) Where there is a conflict between a provision of the code and a provision of the Freedom of Information and Protection of Privacy Act, the code applies.

(9) Subsection (8) does not apply to personal information, as defined in the Freedom of Information and Protection of Privacy Act, that has been in existence for 100 or more years or to other information that has been in existence for 50 or more years.

Enforcement of Act, regulations, code, permit or order

35 (1) If an inspector finds that a mine is not being operated in accordance with an order under section 15 or a provision of the Act, the regulations, the code or a permit, the inspector may order the owner, agent, manager, permittee or person apparently in charge in, on or about a mine to comply with the order or provision.

(2) If a person fails or refuses to comply with an order of an inspector under subsection (1) of this section or under section 15, the inspector may apply to the Supreme Court for an order directing the person to comply.

Annual report

36 The chief inspector must publish an annual report showing results during the previous year in achieving the purposes of this Act.

Offence and penalty

37 (1) A person who obstructs, impedes or otherwise interferes with an inspector in carrying out the inspector's duties under this Act commits an offence.

(2) A person who contravenes a provision of this Act, the regulations, the code or an order made under any of them commits an offence.

(3) A person who commits an offence is liable to a fine of not more than \$1 000 000 or to imprisonment for not more than 3 years or both.

(3.1) The time limit for laying an information to commence a prosecution for an offence under this Act is 3 years after the date on which the chief inspector learned of the facts on which the information is based.

(3.2) A certificate purporting to have been issued by the chief inspector certifying the date referred to in subsection (3.1) is proof of that date.

(4) If an inspector serves a written notice on a person alleging a contravention of this Act, the regulations or the code, or an order under any of them, that person, on conviction, is liable to a penalty, in addition to the penalties provided under subsection (3), not more than \$5 000 and not less than \$500 for every day during which the offence continues to be committed after receipt of the notice.

(5) If a corporation commits an offence, a director or officer of the corporation who authorized, permitted or acquiesced in the offence is, even if the corporation is convicted, liable to the penalty set out in subsection (3).

Power to make regulations

38 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) governing exploration, development, operation, closure and abandonment of mines and mining property;
 - (a.1) respecting applications for, and the issuance of, permits and approvals, including but not limited to prescribing time limits within which specified steps in the application process must be taken;
 - (a.2) for the purposes of section 10 (1.1) and (2.01);
 - (b) respecting the type, application, use and operation of equipment, machinery and other property in, on or about mines, whether moveable or immovable or whether used in mining operations or not;
 - (c) relating directly or indirectly to the health and safety of all persons, including the public, in, on or about mines, either underground or on the surface;
 - (d) respecting standards for environmental protection and reclamation;
 - (e) respecting the conservation of cultural heritage resources;
 - (f) requiring management to give members of the occupational health and safety committee access to relevant records;
 - (g) requiring management to give access to the mine and to its records for the purposes of investigation of death or injury, accidents or dangerous or unusual occurrences;
 - (h) requiring management to forbid a person to enter or engage in work if the person is impaired or has drugs or liquor in the person's possession;
 - (i) requiring management to forbid persons to engage in horseplay;
 - (j) and (k) [Not in force.]
 - (l) prescribing fees and charges that must be paid in respect of any matter for which a service is provided or a duty performed under this Act and prescribing the time and manner of payment of the fees and charges.
- (3) A regulation under subsections (1) or (2) may
- (a) make different provisions for different mines or for different classes or types of mines,
 - (b) adopt all or part of a code or standard published by a national or international standards association, as amended from time to time,
 - (c) specify that the approval or consent of an inspector or some other person is required before a specified action may be taken, and, without limiting this section, may require approval or consent before a specified type of equipment is used at a mine or continues to be used in specified circumstances,
 - (d) delegate to inspectors the power, by order, to vary codes, standards and other prescribed matters in the interests of health and safety in individual mines, and
 - (e) limit, restrict or prohibit, for a prescribed period of time, exploration or mining of uranium, if the uranium is more than a prescribed amount or proportion, within any or all mines, and to close, in the interest of health or safety, any mining operation in which more uranium than the prescribed amount or proportion is found.
- (4) If a regulation is made that results in a limitation, restriction or prohibition on exploration or development or results in the closure of a mining operation, the chief inspector may, on conditions ordered by the chief inspector, consent to
- (a) the recommencement of exploration or development, or
 - (b) the opening of a mining operation that has been closed under that regulation.

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