

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1916.

A BILL

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

1. (1) This Act may be cited as the "Boiler and Machinery Inspection Act, 1916," and shall commence and take effect on a date to be proclaimed by the Governor in the Gazette.

(2) This Act shall extend to and be binding upon the Crown.

2. In this Act, if not inconsistent with the context,—
- “Boiler” means any closed vessel which contains, or is intended to contain, steam, air, or other gas under pressure; the term includes steam boilers, digesters, vats, tanks, and pipes under steam or gas pressure, and has cylinders, air receivers, steam-jacketed pans, and retorts used for retorting mercury from gold or silver amalgam; also all settings, fittings, and mounting, feed pumps, injectors, and all other ancillary apparatus and equipment necessary for the efficiency of the boiler.
- “Building” means any factory as defined in the Factories and Shops Act, 1912, mill, shop, shed, dock, or other building or place in or upon which any machinery may be erected, or where the same may be kept, used, worked, or be in operation.
- “Child” means a person of either sex under the age of fifteen years.
- “Engine” means any contrivance worked by steam, air, water, electricity, or the combustion of gas, or gaseous products, which has rotary motion, and is used for the production of power.
- “Inspector” means and includes the chief inspector and any assistant or associate inspector of machinery appointed under the provisions of this Act.
- “Machinery” means and includes all engines and motors, and every machine, gearing, contrivance, or appliance worked by motive-power and apparatus not so worked of such kinds in each case as are by this Act or may be hereafter by proclamations made under this Act declared to be subject to the provisions of this Act.
- “Minister” means Minister for Labour and Industry or other Minister for the time being administering this Act.
- “Owner” means and includes the person being the owner of any boiler or machinery, as also the hirer, bailee, or mortgagee in possession thereof,
and

and any engineer, overseer, foreman, master of a ship, agent, or person in charge, or having the control or management of any boiler or machinery.

“ Prescribed ” means prescribed by this Act and by regulations made thereunder.

“ Premises ” means and includes any yard, place, house, or building, and any farm, paddock, field, road, or place in which any machinery may be kept, worked, used, or be in operation.

“ Schedule ” means Schedule to this Act, and any amendment of or addition to such Schedule made in pursuance of this Act.

“ Ship ” means every description of vessel used in navigation not propelled by oars.

3. The Governor may appoint a duly qualified person to be the chief inspector, and one or more duly qualified persons to be assistant inspectors of machinery for the purposes of this Act, and may remove such chief inspector or any such assistant inspector of machinery from office, and in case of the death, resignation, or dismissal from office of the chief inspector or of any assistant inspector, may appoint another duly qualified person to be chief inspector or assistant inspector as the occasion may require.

4. The Minister may from time to time appoint duly qualified persons to be associated inspectors of machinery for the purposes of this Act, and may in his discretion at any time cancel any appointment so made. An associate inspector shall, subject as prescribed, have all the powers of an assistant inspector under this Act, and shall be remunerated for his services by payment to him by the Minister of the fees prescribed. Associate inspectors shall not by reason only of the Minister's appointment aforesaid be regarded as employers of the Crown.

5. Every inspector so appointed as aforesaid shall be furnished with a certificate of his appointment in the form prescribed, and on his entering any place or premise, or into any building for any of the purposes of this Act, shall, if required, produce the said certificate to the owner, occupier, or person in charge. **6.**

6. Any person who forges or counterfeits any such certificate, or makes use of any forged or false certificate, or who falsely pretends to be an inspector under this Act, shall be guilty of an offence against this Act, and be liable to be imprisoned for any period not exceeding *six* months.

7. Every inspector shall keep full records of all his proceedings under this Act, and the chief inspector shall at least once in every year, or oftener, if so required, report the same to the Minister with such particulars and information as the Minister may require.

8. (1) Every kind and description of machinery mentioned in the schedule shall be deemed to be machinery for the purposes of this Act.

(2) The Governor may, by proclamation in the Gazette, from time to time alter or amend the Schedule, and from and after the date or dates to be specified by such proclamation the machinery mentioned therein shall conditionally or otherwise be deemed to be or cease to be as notified machinery, subject to or exempted from the provisions of this Act or any part or section thereof.

(3) The Governor may from time to time by proclamation in the Gazette exempt any boilers, or class of boilers, machines or machinery from the provisions of this Act, or any part or section thereof, and may annul or withdraw any exemption so made.

(4) All such proclamations shall be laid before both Houses of Parliament, if Parliament is then sitting, and if Parliament is not then sitting, within fourteen days after the commencement of the next session. Either House of Parliament may by resolution disallow any alteration or amendment of the Schedule made under subsection two of this section.

PART II.

9. (1) Any person who is the owner of any machinery which is subject to the provisions of this Act, and any person who is the owner of any boiler capable of developing five pounds pressure per square inch, shall, within three months after the passing of this Act, or within three months of becoming possessed of the same, send to an inspector a written notice stating the name of such owner, the place where such machinery or boiler is erected, kept, or is intended to be used, the nature and kind of such machinery or boiler, with particulars where applicable, of the character and amount of its motive power or pressure; and in default of his so doing, every such person shall be liable to a penalty not exceeding *ten* pounds.

(2) Whenever any machinery is declared to be subject to the provisions of this Act, as is hereinbefore provided, the owner thereof shall within one month from the date of the proclamation declaring such machinery subject to this Act send to an inspector such notice, and in default thereof shall be liable to such penalty as aforesaid.

10. (1) No engine or boiler shall be operated by or be in charge or control of any person unless he is a male of at least twenty-one years of age; and—

- (a) in the case of an engine exceeding eight nominal horse power, or of a boiler capable of developing five pounds pressure per square inch, unless he holds a certificate of competency of one of the classes hereinafter mentioned; or
- (b) in the case of an engine not exceeding eight nominal horse power, or of a boiler not capable of developing more than five pounds pressure per square inch, unless he holds a permit in writing from an inspector authorising him so to do.

And for the purposes of this Act a person shall be deemed to be in charge or control of a boiler who has any duties in connection with the boiler which necessitates his watching or checking the steam pressure or water-gauge of the boiler. (2)

(2) Any person who contravenes and any owner who suffers to be contravened any of the provisions of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding *five* pounds for each day during which such contravention continues.

11. Any inspector may grant the permit referred to in the preceding section to any person upon being satisfied as to his experience or aptitude, and that he is not otherwise unfit, and any such permit may at any time be suspended or cancelled by the chief inspector.

12. The chief inspector, or by his direction any inspector, shall examine in such mode as may be prescribed, or if not prescribed, as the chief inspector shall deem fit, every person who shall apply for a certificate of competency to take charge or control of any machinery or boiler; and the chief inspector or any such inspector, upon being satisfied that any such person has the requisite knowledge and experience to entitle him to a certificate of competency of any of the three classes hereinafter specified, shall upon the payment of the fee prescribed grant such certificate accordingly.

13. (1) Any person holding a certificate of competency under this Act, and who is charged with any offence or misconduct likely to be detrimental to the proper or efficient discharge of his duties, or is, by reason of incompetency or gross negligence, unfit to discharge such duties, or has been convicted of any offence against this Act, or any regulation made thereunder, may be called upon by the chief inspector to show cause why the said certificate of competency should not be cancelled or suspended, and upon his failure to so show cause to the chief inspector the Minister may upon the recommendation of the chief inspector by order published in the Gazette cancel or suspend such certificate.

(2) Any such person shall, after such order, deliver into the charge of the chief inspector his certificate of competency, which shall be forwarded through the chief inspector to the Minister, and which shall be detained by the Minister, and no such person shall, after

Boiler and Machinery Inspection.

after such cancellation or during the period of such suspension, take charge of any machinery subject to the provisions of this Act.

(3) Any person who shall fail, or neglect, or refuse to deliver up his certificate as aforesaid within seven days after any such order shall have been made by the Minister and published as hereinbefore mentioned shall be liable to a penalty not exceeding *five* pounds.

(4) (a) If any person who has been disqualified under the provisions of this section is dissatisfied with the decision of the chief inspector he may, within seven days after the publication of such order, give notice in writing to the Minister that he requires a further investigation as herein mentioned.

(b) The Minister, upon receipt of such notice, shall report the same to a judge of the Court of Industrial Arbitration, who shall sit as a court of inquiry.

(c) Such court of inquiry shall hear all evidence for or against the disqualification of such person, and may uphold the recommendation of the chief inspector, or may set aside such order or modify the same on such terms as to costs or otherwise, or may make such other order as they shall think fit, and the finding of the court of inquiry shall be published by the Minister in the Gazette, and if the order of the Minister shall be set aside the certificate shall be forthwith returned to the person entitled to the same.

14. Certificates of competency shall be of three classes:—

(a) A certificate of competency of the first class shall entitle the holder thereof to be in charge of or to operate engines and boilers of all characters and descriptions.

(b)

- (b) A certificate of competency of the second class shall entitle the holder thereof to take charge of and to operate engines and boilers of all classes, except winding engines, locomotives, internal combustion engines of two hundred and fifty brake horse-power, traction engines, cranes and condensing engines, and such other engines and boilers as may from time to time hereafter be also exempted by the Governor by proclamation made under this section.
- (c) A certificate of competency of the third class shall entitle the holder thereof to take charge of and to operate engines and boilers other than those mentioned in or covered by paragraph (b) of this section, and other than non-condensing engines, the cylinder or combined cylinders of which exceeds or exceed twelve inches in diameter, or two or more engines combined, the cylinders of which are more than twelve inches in diameter; compound engines, the diameter of the cylinder or combined cylinders of which exceeds or exceed twelve inches; internal combustion engines of one hundred brake horse-power; and boilers carrying more than forty pounds pressure to the square inch.

15. The lists of the names of persons granted certificates under this Act shall be filed in the office of the Chief Inspector, and may be open for search or perusal by any person upon the payment of the fee prescribed.

16. (1) The owner of every boiler shall be furnished by the Chief Inspector with a record number or mark for such boiler, and the owner shall thereupon cause such number or mark to be plainly stamped or legibly painted upon a conspicuous part of such boiler, in such manner as the chief inspector may direct.

(2) Any owner who shall fail to comply with the provisions of this section, or any person who shall remove or obliterate such mark or number, shall on conviction be liable to a penalty not exceeding *five* pounds.

17.

17. Every portable steam-engine or boiler, or portable threshing machine or other machinery that is travelled for hire, shall, in addition to the number necessary in the case of the boilers, have the name and residence of the owner or owners thereof legibly affixed or painted thereon ; and any owner of any such portable steam-engine or boiler, or portable threshing machine or other machinery as aforesaid, who shall fail or neglect to comply with the requirements of this section shall be liable to a penalty not exceeding *twenty* pounds.

18. Cylinders containing or intended to contain compressed or liquid gases shall, in addition to the number hereinbefore prescribed for boilers, be marked with the manufacturer or owner's mark, annealing mark with date and a test mark with date. All such marks shall be permanently and easily visible.

Cylinders of less weight than that prescribed for their size shall not be used to contain compressed or liquefied gases.

Any person who fails to comply with the provisions of this section, or any person who shall remove or obliterate any such mark or number shall, on conviction, be liable to a penalty not exceeding *five* pounds.

19. (1) Whenever any person shall sell or absolutely dispose of any boiler to any person, the seller shall forthwith give notice to the chief inspector, stating the name, occupation, and abode of the person to whom such sale or disposition shall have been made.

(2) Whenever any such boiler, or any other machinery attached thereto, shall be let to hire, or after having been let to hire shall be returned to the owner, a similar notice shall in every such case be given to the chief inspector by the lessor or owner of such boiler or machinery in manner aforesaid.

(3) Whenever the owner of any boiler shall have effected any repairs to any boiler, or shall have added to or taken away from any boiler any fittings or appliances of any kind whatsoever, or in any manner altered the construction thereof, he shall forthwith give notice thereof to the chief inspector : Provided that this section shall not extend to cases where repairs have been

been effected in accordance with a notice to effect repairs given by the inspector under the powers hereinbefore contained.

(4) In any of the cases hereinbefore mentioned, if default shall be made in giving the specified notice, the person offending shall be liable to a penalty not exceeding *ten* pounds.

PART III.

20. The chief inspector, or by his direction any inspector, may enter any building, place, ship or premises wherein or whereon there may be working or in use, erected, placed or kept any machinery or boiler subject to the provisions of this Act, and then and there inspect, examine, or test such machinery or boiler and the appliances connected therewith or belonging thereto, in order that it may be ascertained whether the provisions of this Act have been complied with. Such entry may be made at any reasonable time during the day and whether such machinery or boiler is in operation or working or not.

21. The owner or person in charge of any boiler to be inspected shall—

- (a) afford to the inspector all reasonable facilities for such inspection, and all such information as may reasonably be required of him ;
- (b) previously arrange that at the time of inspection the boiler shall be empty and cool, and shall have been cleaned inside and outside, fire-flues shall have been swept clean ; fire-bars and fire-bridges shall have been removed ; and blow-off and other cocks shall have been cleared for the purpose of examination ;

(c)

- (c) if required by the inspector, cause any brick-work or masonry in contact with the boiler to be removed; and
- (d) during the inspection keep the boiler effectively disconnected from any steam or hot-water communication with any other boiler.

If the owner or person in charge of the boiler shall make default in so doing, he shall be liable to a penalty not exceeding *twenty* pounds.

22. If any person shall wilfully impede any such inspector in the execution of any part of his duty under this Act, or if any owner or person in charge of any such machinery or boiler as last aforesaid shall refuse to give such explanation or information as aforesaid every such person and all persons, aiding or assisting him in such refusal shall be guilty of an offence against this Act, and on conviction shall be liable to a penalty of not more than *twenty* pounds.

23. All boilers and machinery shall be inspected in the manner prescribed within twelve months of the passing of this Act, and thereafter at least once in every twelve months or oftener as occasion may require.

24. (1) The owner of any machinery or boiler shall pay to the inspector on making any inspection the prescribed fees, provided that a fee for inspection of a boiler or machinery shall be payable in respect of the annual inspection, and not oftener for the same boiler or machinery.

(2) Any inspector who knowingly accepts or charges any fee or receives any sum of money over and above the charges prescribed shall be liable to dismissal from his office or cancellation of his appointment and also to a penalty not exceeding *one hundred* pounds.

25. Whenever an inspector shall have inspected or tested any boiler or machinery, and shall be satisfied that the same is complete and in good repair, and may be safely used conditionally or otherwise for specific purposes, he shall, after receipt by him of the fee payable for inspection, give to the owner thereof a certificate to that effect in the form prescribed.

26.

26. If upon inspection it shall appear to the inspector that any boiler or machinery is faulty, or defective, or incomplete in any particular, or so dangerous as to be likely to cause bodily injury to persons or property, he may give the owner of such boiler or machinery a notice in writing to that effect, and such notice may either require such owner—

- (a) to desist wholly from working or using such boiler or machinery until certain repairs, alterations, or safety appliances to be specified in the notice shall have been effected or supplied; or
- (b) to desist from working or using such boiler or machinery except at a minimum pressure or under conditions or limitations to be stated in such notice until any repairs, alterations, or safety appliances specified in such notice shall have been effected or supplied.

Any owner who fails to comply with the terms of such notice shall, unless he show to the chief inspector before proceedings are instituted and thereafter to the court in which proceedings are instituted that the terms of such notice are against the facts disclosed, be guilty of an offence against this Act, and be liable to a penalty not exceeding *twenty* pounds.

27. The Governor may, by order published in the Gazette, prohibit the employment of any person under the age of eighteen years at or in connection with any particular machinery or class of machinery specified in such order as dangerous. An owner who employs any person contrary to such order shall be guilty of an offence against this Act and liable to a penalty of *twenty* pounds.

28. (1) The owner of any boiler or machinery shall at all reasonable times produce for inspection the certificate of inspection or testing granted to him under the provisions of this Act to any person working at or with the boiler or machinery, and also to an inspector and any member of the police force, and any owner failing so to produce such certificate shall on conviction be liable to a penalty not exceeding *five* pounds.

(2)

(2) Furnish the specifications to which cylinders containing or intended to contain compressed or liquified gases were manufactured and the means taken to secure proper thickness and complete annealing of the walls of such cylinders.

29. If any owner of any boiler or machinery shall work the same or cause the same to be worked without having had such boiler or machinery inspected in accordance with the provisions of this Act or after such inspection otherwise than in accordance with the conditions of the certificate or mentioned in sections twenty and twenty-one of this Act, he shall be liable to a penalty of not more than *twenty* pounds.

30. (1) No owner shall suffer—

- (a) any child to be employed in working or assisting to work any machinery or in attending or assisting to attend any boiler ;
- (b) any male person under the age of eighteen years or any female to clean any parts of the gearing of any machinery while the same is in motion.

(2) Any person failing to observe the provisions of this section shall be guilty of an offence against this Act.

31. No owner shall suffer any person to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of gas, steam, water, or other mechanical power, or permit such traversing part to run out to within a distance of eighteen inches from any fixed structure not being part of the machine if the space over which it so runs is a space through which any person is likely to pass.

Any owner failing to observe the provisions of this section shall be guilty of an offence against this Act, and on conviction shall be liable to a penalty not exceeding *twenty* pounds.

32. The provisions of the two last preceding sections shall be applicable to machinery of every kind, and to the parts of machinery therein mentioned, whether such machinery is hereby declared to be subject to the provisions of this Act or may hereafter be declared to be subject thereto, or not.

33.

33. On the first inspection of any boiler the inspector shall make and keep a complete record of all particulars which may be necessary to ascertain the state and condition of such boiler. Such record shall contain particulars respecting the nature and construction of the boiler, the name of the maker, the pressure which such boiler is calculated to sustain, the mode of working the same, and generally as to the state and condition thereof, and of all appliances used in connection therewith, and the fitness thereof for the particular purpose to which it is applied.

34. On each subsequent occasion on which he shall inspect any boiler after such first inspection, the inspector shall carefully make a comparison with such standards as aforesaid, and shall record any changes which may have occurred since the previous inspection; and if any change or alteration has been made in such boiler, or any repairs effected therein, he shall duly record the same in such manner as may be prescribed; and if no change or no material change has occurred in the state and condition of such boiler, he shall also record the same in manner aforesaid.

35. The inspector may, in addition to any other tests that may be required, test any boiler by hydraulic pressure in any case in which he may consider it necessary.

36. The owner or person in charge of any boiler shall, during the time that any person may be in such boiler, keep the said boiler effectively disconnected from any steam or hot-water communication with any other boiler; and in default of his so doing he shall be liable to a penalty not exceeding *twenty* pounds.

37. Not less than once in every year the chief inspector shall prepare and forward to the Minister a full and true abstract or return of all boilers inspected under the provisions of this Act during the preceding year; and such abstract shall contain all such particulars and be in such form as may from time to time be prescribed by any regulation to be made under this Act.

PART IV.

38. (1) On the occurrence of an explosion from any boiler, and whenever loss of life or bodily injury to any person by reason of the explosion from any boiler, or by reason of any accident with any machinery, shall have happened (whether such boiler or machinery be exempt from the provisions of this Act or not) the owner of such boiler or machinery shall within twenty-four hours thereafter send notice in writing, under his hand, to the chief inspector notifying in such notice—

- (a) the cause of such explosion or accident ;
- (b) the precise locality and the day and hour of such explosion or accident ;
- (c) the number of persons injured or killed ;
- (d) the purposes for which the boiler or machinery was used ;
- (e) such other particulars (if any) as may be prescribed ;

and shall cause such notice to be delivered at the office of such chief inspector.

(2) In the case of an explosion or accident at sea such notice shall be sent within twenty-four hours after the occurrence of the explosion or accident, or as soon thereafter as possible ; but this provision shall not apply where a report of such explosion or accident has been duly sent in pursuance of section four hundred and twenty-five of the Merchant Shipping Act, 1894 (57 and 58 Victoria, c. 60), or of the terms of any statute relating to ships registered in or engaged in the coastal trade of New South Wales, passed in accordance with the provisions of the said Merchant Shipping Act, 1894, and of the Commonwealth of Australia Constitution Act (63 and 64 Victoria, c. 12).

(3) If default is made in complying with the requirements as to notice as aforesaid the owner shall be liable to a penalty not exceeding *twenty* pounds.

39. (1) On receiving notice of a boiler explosion or accident with machinery the chief inspector shall forward the same to the Minister, who may, if he thinks fit, appoint one or more competent and independent engineer

23

engineer or engineers practically conversant with the manufacture and working of boilers and machinery to make a preliminary inquiry with respect to the explosion or accident, and the persons so appointed shall have the powers conferred on the court by subsection four of this section. If it appears to the Minister, either upon or without such preliminary inquiry, that a formal investigation of the cause and circumstances attending the explosion or accident is expedient, the Minister may direct a formal investigation to be held; and with respect to such investigation the following provisions shall have effect:

(2) Formal investigations of boiler explosions or accidents with machinery shall be made at or near the place of such explosion by a court consisting of not less than two commissioners appointed by the Minister, of whom one at least shall be a competent and practical engineer specially conversant with the manufacture and working of boilers and machinery, and one a competent lawyer. The court shall be presided over by one of the commissioners, the selection being made by the Minister.

(3) Any such formal investigation shall be held in open court, in such manner and under such conditions as the commissioners may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and for enabling them to make the report hereinafter mentioned in this section.

(4) The court shall have, for the purposes of its investigations, all the powers of a District Court when acting as a court of quarter sessions in the exercise of its ordinary jurisdiction, and shall in addition have the following powers, viz. :—

- (a) The court, or any one appointed by it, may enter and inspect any place or building, the entry or inspection whereof appears to the court requisite for the said purpose.
- (b) It may by summons under its hand require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as it thinks fit to make.

(c)

- (c) It may require and enforce the production of all books, papers, and documents which it considers important for the said purpose,
- (d) It may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.
- (e) Every person so summoned, not being the owner or user of the boiler or machinery or in the service or employment of the owner or user, or in any way connected with the working or management of the boiler or machinery, shall be allowed by the Minister such expenses as would be allowed to a witness attending on subpoena before the Supreme Court, and in case of dispute as to the amount to be allowed the same shall be referred by the court to the Prothonotary of the Supreme Court, who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of such expenses.

(5) The court making a formal investigation with respect to any boiler explosion or accident with machinery shall present a full and clear report to the Minister, stating the causes of the explosion or accident and all the circumstances attending the same, with evidence, adding thereto any observations thereon, or on the evidence, or on any matters arising out of the investigation which it thinks right to make, and the Minister shall cause every such report to be made public in such manner as he thinks fit. When no formal investigation is held, the report presented to the Minister by the engineer making a preliminary inquiry with respect to a boiler explosion or accident with machinery shall be made public in such manner as the Minister thinks fit.

40. The court, if it be satisfied as the result of its inquiry that—

- (a) the owner has failed to have the boiler which has exploded or the machinery in respect of which the accident has occurred inspected by a competent person or within a period prior to the

the explosion or accident which, in view of the conditions of working, quality of feed, water, and custom of the locality, and irrespective of the provisions for inspection contained in this or any other law prescribing the inspection of machinery is in the opinion of the court a reasonable period; or

(b) the boiler has been worked since the last inspection at a pressure exceeding that for which it has been certified; or

(c) that there has otherwise been wilful or culpable negligence on the part of the owner in carrying out any recommendations made at the last inspection,

may, subject to appeal by way of certiorari in the Supreme Court or a judge thereof, order such owner to pay a penalty not exceeding *five hundred* pounds, and may also order the whole or any part of the costs and expenses of a preliminary inquiry or formal investigation including therein the remuneration of persons holding such inquiry or investigation, to be paid by such owner; and such order or orders shall, on the application of the Minister or of any other party entitled to the benefit of the same, be enforced in the District Court or in any court of summary jurisdiction as if such penalty, costs, and expenses were a penalty imposed by such court.

41. The court, if it be satisfied as the result of its inquiry that any inspection made by an inspector acting for the purposes of and under the authority of this Act was carelessly or inadequately or incompetently carried out or that recommendations with regard to the use of any boiler or machinery which should have been given as the result of an inspection made for the purposes and under the authority of this Act were by reason of the inspector's negligence or incompetence not given, may, subject to appeal by way of certiorari to the Supreme Court or a judge thereof, order such inspector to pay a penalty not exceeding *one hundred* pounds, and may also order the whole or any part of the costs and expenses of a preliminary inquiry or formal investigation, including

including therein the remuneration of persons holding such inquiry or investigation, to be paid by such inspector; and such order or orders shall on the application of the Minister or of any other party entitled to the benefit of the same be enforced in the District Court or in any court of summary jurisdiction as if such penalty, costs, and expenses were a penalty imposed by such court.

42. Every person who refuses to attend as a witness after having been required so to do in the manner specified in section forty of this Act, and after having had a tender made to him of the expenses therein mentioned, or refuses or neglects to make any answer, or to give any return, or to produce any documents in his possession, or to make or subscribe any declaration required under the powers of the said Act, shall for each such offence be liable to a fine of not exceeding *ten* pounds recoverable as herein provided.

PART V.

43. (1) No person shall be liable to the provisions of this Act as an owner of machinery or a boiler unless such machinery or boiler shall be under his actual or constructive power or control; nor shall any mortgage of any machinery or boiler be liable as hereinbefore mentioned unless he shall be in actual possession thereof, or have the same under his actual or constructive power or control.

(2) For the purposes of this section, the words "actual or constructive power or control" shall mean where any machinery or a boiler is worked or used by the owner of such machinery personally, or his agents, servants, or others under his orders or directions.

(3) Nothing herein contained shall exempt any body corporate from any liability under this Act by reason only that any such machinery or boiler is under the control of any directors, secretary, manager, or other person or persons whomsoever elected or employed by any such body corporate for the benefit of or on behalf of such body.

44. The owner of any boiler or machinery in respect of which an offence has been committed against this Act for which a pecuniary penalty may be imposed, shall in every case (save as hereinafter provided) be deemed

deemed in the first instance to have committed the offence, and shall be liable, upon proceedings instituted by or by direction of the Minister, to pay the penalty; but any owner who shall have been proceeded against shall be entitled, upon information duly laid by such owner, to have any agent, servant, or workman brought before the justices at the time appointed for hearing the information laid against him by the owner, and if, after the commission of the offence has been proved, the owner shall prove to the satisfaction of the justices that he had used due diligence to enforce the execution of this Act, and that the said agent, servant, or workman had committed the act in question without his knowledge, consent, or connivance, the said agent, servant, or workman shall be convicted of such offence, and shall pay the penalty instead of the owner; and the payment of such penalty and costs shall be enforced against the agent, servant, or workman in like manner as penalties are made recoverable by this Act.

45. In any case where it shall appear to an inspector at the time of discovering the offence that the owner had used all due diligence to enforce the execution of this Act, and also by what person the offence had been committed, and also that it had been committed without the personal knowledge, consent, or connivance of the owner, and in contravention of his orders, then the proceedings may be instituted against the person whom he shall believe to be the actual offender in the first instance, without first proceeding against the owner.

46. All offences against this Act shall be heard and determined, and all penalties shall be recovered, and every information or complaint under this Act shall be laid or made and heard, and all proceedings consequent thereon or incidental thereto shall be had and taken in the manner provided by the Justices Act, 1902, and in Acts amending the same.

47. The Governor may by notices in the Gazette from time to time make, alter, and repeal regulations—

- (a) for prescribing the forms to be used, the notices to be given, and the particulars to be set forth therein, the fees to be paid, and the procedure to

- to be followed under this Act, and generally carrying into effect the provisions of this Act.
- (b) prescribing the powers, duties, and qualifications of inspectors ;
 - (c) prescribing the penalties and disabilities to be imposed on any person holding a certificate of competency under this Act by reason of the misconduct, negligence, or incompetency of such person ;
 - (d) prescribing a form of record book to be kept for the entry of particulars as to the inspection and testing of boilers, and the modes in which the same shall be kept, and at what place and times the same shall be open for inspection ;
 - (e) prescribing the steps to be taken by the owner or user of any machinery or boiler to facilitate the work of inspection or testing ;
 - (f) prescribing the nature and extent of the inspection to be made and the duties of inspectors under this Act ;
 - (g) prescribing the precautions to be taken against the risk of accident from and the equipment, fittings, and safety appliances to be used in connection with boilers and machinery subject to this Act ;
 - (h) prescribing the standards to be adopted and the tests to be applied by inspectors in determining whether a boiler is complete and in good sound condition or repair, and may safely be used under specified conditions or unconditionally for any particular purpose ;
 - (i) imposing any penalty not exceeding pounds for the breach of any regulation made under this section.

All such regulations shall be published in the Gazette and laid before both Houses of Parliament within ten days after the gazetting thereof if Parliament is then sitting, or if not sitting within ten days after the commencement of the next Session.

SCHEDULE.

Disintegrators and devils.

Metal Working Machines—

Guillotines, saws and shears of all kinds.

Drilling machines with four or more spindles.

Grinding machines—

Carborundum wheels.

Emery wheels.

Grindstones.

Hammers (mechanically operated).

Iron roller mills.

Nut and bolt machines.

Power presses.

Rolling machines—

Corrugating rollers (moved by mechanical power).

Curling rollers (moved by mechanical power).

Iron plate rollers (moved by mechanical power).

Lead rollers (moved by mechanical power).

Painting rollers (moved by mechanical power).

Stamping machines—

Dropper stamping machines.

Guttering and ridging machines.

Shears and punch machines.

Wire weaving machines.

Wood-working machines—

Band saws.

Breaking-down saws,

Circular saws.

Boring machines.

Circular moulding machines.

Croziars.

Sandpapering machines.

Hand-planing machines

Jointing machines.

Mitreing machines.

Mortising machines.

Planing machines (three or four sided).

Shaping machines.

Spoke turning machines.

Square turning drum machines.

Stave shaping machines.

Stave jointing machines.

Surfacing machines.

Tenoning machines.

Throating machines.

Universal machines.

Aerated Waters and Breweries—

Bottling machines.

Bedding and upholstering—

Teasing machines.

Blue—

Blue press.

Boots—

SCHEDULE—*continued.*

Boots—

- Power presses for cutting.
- Rangers.
- Rolling machines.

Bread, biscuits, and pastry—

- Dough bakers.
- Dough dividers.
- Dough mixers.
- Dough rollers.
- Dough power-pressers.

Bricks, Tiles, and Pottery—

- Brick presses.
- Pipe presses.
- Pug mills.
- Tile presses—except hand presses for ornamental tiles.

Brooms—

- Broom sewing machines.
- Broom tying machines.
- Broom winding machines.

Confectionery—

- Lolly rollers.
- Mixing machines.
- Pulling machines.

Fellmongering, Leather Dressing, Woolwashing, and Woolworking—

- Burring machines.
- Carding machines.
- Fleshing machines.
- Glazing machines.
- Ironing machines.
- Rangers.
- Rolling machines.
- Setting-out machines.
- Softening machines.
- Splitting machines.
- Unhairing machines.
- Wool-drying machines.
- Wool-washing machines.
- Fur-cutting machines.

Fertilisers—

- Grinding mills.

Laundry—

- Hydro-extractors.

Marble, Slate, and Stone—

- Crushing machines.
- Planing machines.
- Screening machines.
- Floats.

Meat Preserving and Small Goods—

- Meat-chopping machines.
- Meat-filling machines.
- Mincing machines.

Oils

SCHEDULE—*continued.*

Oils and Grease—

- Cake presses.
- Crushing machines.
- Shredding machines.

Paint and Varnish—

- Paint mills.
- Paint-mixing machines.
- Paint rollers.

Paper—

- Guillotines.
- Disintegrators and devils.
- Calendar rolls.
- Paper devils.

Printers' Materials—

- Ink mills.
- Ink rollers.

Printing and Paper-boxes—

- Corner-cutting machines.
- Corner-staying machines.
- Creasing or bending machines.
- Label-cutting machines.
- Slotting machines.
- Power-presses for cutting.
- Platen machines excepting the Falcon safety-platen or machine similarly constructed.

Produce and Gristing—

- Chaff-cutting machines.
- Grain-crushing machines.
- Gristing mills.

Rope and Twine—

- Devils.
- Jennies.
- Spinning machines.
- Travellers.

Smelting, Refining, and Reduction—

- Pans for mixing, grinding, or crushing.

Soap—

- Milling machines.
- Rolling machines.
- Stamping presses.

And generally—

All machinery of one or more horse-power, stationary or movable, worked by steam, water, electricity, gas, or gaseous products, and used in printing, knitting, flax-milling, flour-milling, sheep-shearing, bone-crushing, quartz-crushing, pumping, preserving, weight-raising, chaff-cutting, cloth-mills, woollen-mills, batteries, foundries, or in any other manufacturing or industrial process whatsoever.

Except

SCHEDULE—*continued.*

Except in each case—

- (a) when situated or used in a factory registered under the Factories and Shops Act, 1912, or any Act passed to amend or replace the same ;
 - (b) when situated or used in or in connection with mines subject to the provisions of the Mines Inspection Act, 1901, the Mines Inspection (Amendment) Act, 1904, the Coal Mines Regulation Act, 1912, the Coal Mines Regulation (Amending) Act, 1913, or any Act passed to amend or replace the same ;
 - (c) when situated or used on ships subject to the Merchant Shipping Act, 1894, the Navigation Act, 1910, No. 4 (Commonwealth), and the Navigation Act, 1901, or any Act passed to amend or replace the same ;
 - (d) when inspected and controlled under the Scaffolding and Lifts Act, 1902.
-