



New South Wales

# Coal Mines (Investigation) Regulation 1999

under the

Coal Mines Regulation Act 1982

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Coal Mines Regulation Act 1982*.

The Hon. EDWARD OBEID, O.A.M., M.L.C.,  
Minister for Mineral Resources

## Explanatory note

The *Mines Legislation Amendment (Mines Safety) Act 1998* made amendments to the *Coal Mines Regulation Act 1982* relating to safety matters at coal mines, including amendments relating to the investigation of accidents and dangerous occurrences at coal mines.

The object of this Regulation is to provide for the following matters relating to the investigation of such accidents and dangerous occurrences:

- (a) requiring inspectors and others to produce certificates of authority in certain circumstances and to provide for the form of those certificates (clause 6),
- (b) prescribing the accidents and occurrences that must be reported to the Director-General of the Department of Mineral Resources (clause 7),
- (c) specifying certain functions of inspectors and others in respect of accidents or dangerous occurrences (clause 8),
- (d) requiring that the terms of reference of a Board of Inquiry constituted under the Act by the Minister to conduct an inquiry into an accident, dangerous occurrence, practice or matter at a coal mine be made publicly available (clause 9),

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Explanatory note

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- (e) requiring the Minister to be satisfied as to the qualifications and experience, and the lack of any potential conflict of interest, of any person proposed to be constituted as such a Board of Inquiry or to be appointed as an assessor for the purposes of an inquiry conducted by any such Board of Inquiry (clause 10).

This Regulation is made under the *Coal Mines Regulation Act 1982*, including sections 91 and 174 (the general regulation-making power).

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## Coal Mines (Investigation) Regulation 1999

### 1 Name of Regulation

This Regulation is the *Coal Mines (Investigation) Regulation 1999*.

### 2 Commencement

This Regulation commences on 1 September 1999.

### 3 Application

This Regulation applies to and in respect of open cut mines and underground mines.

### 4 Definitions

(1) In this Regulation:

*investigator* includes a person who is appointed as a consultant under section 93E of the Act and is exercising the functions of an investigator as referred to in that section.

*the Act* means the *Coal Mines Regulation Act 1982*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

### 5 Notes

The explanatory note and table of contents do not form part of this Regulation.

### 6 Certificates of authority

(1) The Director-General is to cause to be provided to each inspector, mine safety officer and investigator a certificate of authority in Form 1.

(2) An inspector, mine safety officer or investigator is required to produce the certificate of authority:

(a) if requested to do so by the manager of a mine or the person occupying or having charge or control of any other land, place or premises or any vehicle that the inspector, mine safety officer or investigator enters, or

- (b) if requested to do so by a person whom the inspector, mine safety officer or investigator requires to produce anything or to answer any question.

#### **7 Certain accidents and occurrences to be reported to Director-General**

For the purposes of section 91 (3) of the Act, the following accidents and occurrences are prescribed:

- (a) an accident at an underground or open cut mine in which serious bodily injury is caused to a person and it is likely that death will result from the injury,
- (b) an accident at an underground mine involving an occurrence referred to in clause 34 (a) or (d) of the *Coal Mines (Underground) Regulation 1999*,
- (c) an occurrence referred to in clause 34 (a) or (d) of the *Coal Mines (Underground) Regulation 1999* at an underground coal mine that results in production ceasing for more than 8 hours.

#### **8 Participation in investigations by district check inspector and mining company representative**

- (1) When an inspector is exercising functions under the Act in respect of an accident or dangerous occurrence at a mine, the inspector:
  - (a) must invite the district check inspector for the mine and a mining company representative to accompany the inspector on any inspection of the place where the accident or occurrence occurred, and
  - (b) must consider any issues raised by the district check inspector or mining company representative in relation to the accident or occurrence, and may raise those issues with any person interviewed under section 60 (1) of the Act in relation to the accident or occurrence, and
  - (c) if the inspector considers it appropriate, must permit the district check inspector and mining company representative to be present at any interview (or part of an interview) conducted by the inspector under section 60 (1) of the Act in relation to the accident or occurrence, and
  - (d) before completing any examination, inspection or investigation in relation to the accident or occurrence, must consult with the district check inspector and mining company representative as

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to the inspector's proposed findings in relation to the accident or occurrence, and

- (e) when preparing any report of the inspector's findings in relation to the accident or occurrence, must consider any comments made by the district check inspector or mining company representative as a result of the consultation under paragraph (d).
- (2) An inspector is not required to permit the district check inspector and mining company representative to be present as referred to in subclause 1 (c), or to consult with the district check inspector and mining company representative under subclause (1) (d), unless the district check inspector or mining company representative undertakes in writing:
- (a) to treat as strictly confidential any information given to the district check inspector or mining company representative in relation to the accident or occurrence, and
  - (b) not to divulge any such information to anyone else unless authorised by the inspector.
- (3) In this clause:

*inspector* includes a mine safety officer and investigator.

*mining company representative*, in relation to a mine, means a representative of the management of the mine.

### 9 Terms of reference of Boards of Inquiry

As soon as practicable after constituting a Board of Inquiry under section 94A of the Act, the Minister is to cause its terms of reference to be made publicly available.

### 10 Prospective appointees to Boards of Inquiry

- (1) The Minister is not to constitute a person as a Board of Inquiry under section 94A of the Act, or appoint a person as an assessor for the purposes of a special inquiry conducted by any such Board of Inquiry, unless the Minister is satisfied that the person concerned:
- (a) has appropriate qualifications and experience, and
  - (b) does not have an interest that may raise a conflict with the proper performance of the person's proposed duties.

- (2) For the purposes of subsection (1), the Minister may require the person concerned to furnish:
- (a) evidence of the person's qualifications and experience, and
  - (b) a statement disclosing:
    - (i) the person's financial, professional or personal interests (whether past, present or future) in relation to the subject of the special inquiry, and
    - (ii) any other interest that may raise a conflict with the proper performance of the person's proposed duties.

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Schedule 1      Forms

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**Schedule 1    Forms**

(Clause 4)

**Form 1 Certificate of authority**

(Clause 6)

(Coal Mines Regulation Act 1982)

This certifies that .....  
(insert name of inspector\*/mine safety officer\*/investigator\*/consultant\*)

whose photograph and signature appear below, is an inspector\*/mine safety officer\*/investigator\*/consultant\* appointed under the *Coal Mines Regulation Act 1982*.

(affix  
photograph  
here)

.....  
(signature of inspector\*/mine safety officer\*/ investigator\*/consultant\*)

.....  
(Director-General of the Department of Mineral Resources)

\*The inspector\*/mine safety officer\*/investigator\*/consultant\* named above is authorised to exercise the functions of an inspector\*/mine safety officer\*/investigator\* under the *Coal Mines Regulation Act 1982*.

\*The consultant named above has been appointed for the period ..... to .....  
(insert period of appointment)

\*Delete whichever is inapplicable

BY AUTHORITY

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