



# Occupational Health and Safety Amendment (Mines) Regulation 2004

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

KERRY ARTHUR HICKEY, M.P.,

Minister for Mineral Resources

## Explanatory note

The object of this Regulation is to amend the *Occupational Health and Safety Regulation 2001*:

- (a) to implement hazard-specific International Labour Organisation Conventions in relation to mines by applying certain provisions of the Regulation to mines, and
- (b) to change references in certain provisions of the *Occupational Health and Safety Act 2000* to WorkCover, in so far as those provisions apply to a mine, to references to the Department of Mineral Resources, the Director-General of that Department, officers of that Department and the Minister for Mineral Resources, and
- (c) to make a number of miscellaneous amendments.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including section 33 (the general regulation-making power) and sections 36–39, 106 and 133.

## **2004 No 245**

Clause 1 Occupational Health and Safety Amendment (Mines) Regulation 2004

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# **Occupational Health and Safety Amendment (Mines) Regulation 2004**

under the

Occupational Health and Safety Act 2000

### **1 Name of Regulation**

This Regulation is the *Occupational Health and Safety Amendment (Mines) Regulation 2004*.

### **2 Commencement**

- (1) This Regulation commences on 17 May 2004, except as provided by subclause (2).
- (2) So much of Schedule 1 [4] as inserts Part 2, Parts 5–8, clause 10 (2) of Part 9 and clause 11 (1) of Part 10 of Schedule 4 into the Regulation commences on 1 November 2004.

### **3 Amendment of Occupational Health and Safety Regulation 2001**

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 3)

### [1] Clause 4 Application of Regulation

Omit clause 4 (3). Insert instead:

- (3) This Regulation does not apply to a mine, except as specified in Schedule 4.

### [2] Clause 357

Omit the clause. Insert instead:

#### **357 Additional officers authorised to consent to the institution of proceedings for offences**

For the purposes of section 106 (1) (b) of the Act, the Director-General of the Department of Mineral Resources is a prescribed officer in relation to proceedings for an offence against the Act concerning a place of work that is a mine.

### [3] Clause 358

Omit the clause. Insert instead:

#### **358 Application of Act to mines: references to WorkCover**

- (1) In accordance with section 133 of the Act, a reference in any of the following provisions of the Act to WorkCover, in connection with the application of the provision to a mine, is taken to be a reference to the Department of Mineral Resources:
  - (a) Part 4 (Industry codes of practice),
  - (b) section 114 (Orders regarding costs and expenses of investigation).
- (2) In accordance with section 133 of the Act, a reference in section 109 of the Act to the General Manager of WorkCover, in connection with the application of the provision to a mine, is taken to be a reference to the Director-General of the Department of Mineral Resources.
- (3) In accordance with section 133 of the Act, a reference in any of the following provisions of the Act to WorkCover, in connection with the application of the provision to a mine, is taken to be a reference to the Minister for Mineral Resources:

## 2004 No 245

Occupational Health and Safety Amendment (Mines) Regulation 2004

Schedule 1 Amendments

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- (a) Division 2 (Duty to consult) of Part 2,
  - (b) Division 2 (Powers of inspectors) of Part 5,
  - (c) Division 4 (General provisions relating to notices) of Part 6.
- (4) In accordance with section 133 of the Act, a reference in section 107 of the Act to WorkCover, in connection with the application of the provision to a mine, is taken to be a reference to an officer of the Department of Mineral Resources appointed under section 47A of the Act.

### [4] Schedule 4

Insert at the end of the Regulation:

## Schedule 4 Application of Regulation to mines

(Clause 4 (3))

### Note.

**Mine** is defined in the Act as a mine within the meaning of the *Mines Inspection Act 1901* or the *Coal Mines Regulation Act 1982* and so as to include a coal preparation plant that is a declared plant under Part 5A of the latter Act.

## Part 1 Preliminary

### 1 Definition

In this Schedule:

**coal mine** means:

- (a) a mine within the meaning of the *Coal Mines Regulation Act 1982*, and
- (b) a coal preparation plant that is a declared plant under Part 5A of the *Coal Mines Regulation Act 1982*.

### 2 Application of interpretation and other provisions of Chapter 1 to relevant provisions

To remove any doubt, to the extent that Chapter 1 or any other provision of this Regulation provides for the interpretation of a term used in, or application of, a provision referred to in this Schedule (a **relevant provision**), that Chapter and provision apply to the relevant provision in its application to a mine.

## **Part 2      Places of work—risk management and other matters**

### **3      Application of risk management provisions to coal mines**

The following provisions of Chapter 2 apply to a coal mine:

- (a) clause 9 (Employer to identify hazards),
- (b) clause 10 (Employer to assess risks),
- (c) clause 11 (Employer to eliminate or control risks),
- (d) clause 12 (Employer to review risk assessments and control measures),
- (e) clause 16 (Employer to obtain information).

## **Part 3      Workplace consultation**

### **4      Application of workplace consultation provisions to mines**

Chapter 3 applies to a mine.

## **Part 4      Asbestos**

### **5      Application of asbestos-related provisions to mines**

The following provisions of this Regulation apply to a mine:

- (a) Division 1 (General duties of controllers of premises) of Part 4.2 of Chapter 4 (to the extent that it imposes duties with respect to hazards caused by the presence of material containing asbestos),
- (b) Division 4 (Asbestos) of Part 4.2 of Chapter 4,
- (c) Part 8.7 (Asbestos—particular provisions) of Chapter 8,
- (d) Chapter 10 (Licensing of certain businesses), to the extent that it relates to asbestos removal work,
- (e) Chapter 11 (Permits for certain work), to the extent that it relates to friable asbestos removal work,

## 2004 No 245

Occupational Health and Safety Amendment (Mines) Regulation 2004

Schedule 1 Amendments

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- (f) Part 12.3 (Notifications of proposed work) of Chapter 12, to the extent that it relates to bonded asbestos removal work.

**Note.**

See also Part 9 of this Schedule (Hazardous substances).

### **Part 5 Noise management**

#### **6 Application of provisions about noise to coal mines**

Division 4 (Noise management) of Part 4.3 of Chapter 4 applies to a coal mine.

### **Part 6 Atmosphere**

#### **7 Application of provisions about atmosphere to mines**

- (1) Clauses 50 and 51 apply to a mine, subject to subclause (2).
- (2) Clauses 50 and 51 do not apply to the atmosphere of a mine to the extent that more stringent provision is made by or under another Act in relation to that atmosphere than is made by those clauses.

### **Part 7 Working in confined spaces**

#### **8 Application of provisions about working in confined spaces to coal mines**

Division 9 (Working in confined spaces) of Part 4.3 of Chapter 4 applies to the surface of a coal mine.

### **Part 8 Manual handling**

#### **9 Application of provisions about manual handling to coal mines**

Part 4.4 (Manual handling) of Chapter 4 applies to a coal mine.

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## Part 9 Hazardous substances

### 10 Application of provisions about hazardous substances to mines

- (1) Parts 6.1–6.3 of Chapter 6 apply to a mine.
- (2) Part 6.4 of Chapter 6 applies to a coal mine, except clause 164 to the extent that it relates to use of a hazardous substance that is asbestos in any form.
- (3) Clause 164 of Part 6.4 of Chapter 6, to the extent that it relates to use of a hazardous substance that is asbestos in any form applies to a mine.
- (4) A reference in any of the following provisions of Part 6.4 of Chapter 6 to WorkCover, in connection with the application of the provision to a coal mine, is taken to be a reference to the Department of Mineral Resources:
  - (a) clause 166,
  - (b) clause 171,
  - (c) clause 172,
  - (d) clause 174.
- (5) Clause 362 and Schedule 3 apply to the supply or use of chrysotile (white asbestos) in a mine.

## Part 10 Notifications of proposed work

### 11 Application of provisions about notifications of proposed work

- (1) Part 12.3 of Chapter 12, to the extent that it relates to use of a notifiable or prohibited carcinogenic substance (as defined in Part 6.3) other than a substance that is a form of asbestos, applies to a coal mine.
- (2) Clause 345 of Part 12.3 of Chapter 12, to the extent that it relates to use of a notifiable or prohibited carcinogenic substance (as defined in Part 6.3) that is a form of asbestos, applies to a mine.

**Note.**

See also clause 5 (f) of this Schedule (which relates to notifications of bonded asbestos removal work in mines).

## 2004 No 245

Occupational Health and Safety Amendment (Mines) Regulation 2004

Schedule 1 Amendments

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### **Part 11 Miscellaneous**

#### **12 Application of miscellaneous provisions**

- (1) Parts 12.4 and 12.5 of Chapter 12 apply to a mine.
- (2) Except as provided by subclause (3), a reference in a provision of Part 12.4 or 12.5 of Chapter 12 to WorkCover, in connection with the application of the provision to a mine, is taken to be a reference to the Director-General of the Department of Mineral Resources.
- (3) Subclause (2) does not apply to any reference to the extent that it relates to:
  - (a) an exemption from any provision of the Regulation in its application to asbestos in any form, or
  - (b) a decision made in respect of the use of asbestos in any form.
- (4) Clauses 357 and 358 apply to a mine.

BY AUTHORITY

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