



New South Wales

Coal Mine Health and Safety Regulation 2006

under the

Coal Mine Health and Safety Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Coal Mine Health and Safety Act 2002*.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

Explanatory note

The aim of the *Coal Mine Health and Safety Act 2002* is to secure the health, safety and welfare of people in connection with coal operations (which include all places of work where coal is mined and certain other places). The object of this Regulation is to prescribe certain matters for the purposes of that Act. In particular, this Regulation contains provisions about the following matters:

- (a) places of work to which the Act does not apply (clause 6 and Schedule 1),
- (b) duties relating to health, welfare and safety at coal operations, including the following:
 - (i) the nomination of the operator of a coal operation and the provision of health and safety information for incoming operators (Division 1 of Part 2),
 - (ii) the contents of health and safety management systems for coal operations (Division 2 of Part 2),
 - (iii) major hazards and the contents of major hazard management plans for coal operations (which form part of the health and safety management system) (Division 3 of Part 2),
 - (iv) duties relating to contractors (Division 4 of Part 2),
 - (v) the contents of management structures and emergency management systems for coal operations (which form part of the health and safety management system), escape and rescue plans and fire fighting plans and high risk activities (Division 5 of Part 2),
- (c) notifications, including the following:
 - (i) notification of incidents (Division 1 of Part 3),
 - (ii) inquiries (Division 2 of Part 3),

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- (iii) notification of other matters to the Chief Inspector (Division 3 of Part 3),
- (d) aspects of safety at coal operations, including the following:
 - (i) controlled materials, plants and practices (Division 1 of Part 4),
 - (ii) coal dust explosion prevention and suppression (Division 2 of Part 4),
 - (iii) ventilation at coal operations (Division 3 of Part 4),
 - (iv) escape from coal operations (Division 4 of Part 4),
 - (v) the operation of transport at coal operations (Division 5 of Part 4),
 - (vi) surveys and certified plans (Division 6 of Part 4),
 - (vii) employment at coal operations (Divisions 7–9 of Part 4),
- (e) the licensing of certain activities (Part 5),
- (f) competence standards (Part 6),
- (g) the Coal Competence Board (Part 7),
- (h) check inspectors (Part 8),
- (i) exemptions from provisions of this Regulation (Part 9),
- (j) the following miscellaneous matters concerning coal mine health and safety:
 - (i) the keeping of records and reporting (Division 1 of Part 10),
 - (ii) penalties, the review of decisions by the Administrative Decisions Tribunal, fees and charges, consultation, information and other miscellaneous matters (Division 2 of Part 10),
- (k) savings and transitional provisions (Schedule 2).

This Regulation refers to the following standards:

- (a) Australian Standard AS 3640—2004 *Workplace atmospheres—Method for sampling and gravimetric determination of inhalable dust*,
- (b) Australian Standard AS 2985—2004 *Workplace atmospheres—Method for sampling and gravimetric determination of respirable dust*,
- (c) Australian/New Zealand Standard AS/NZS 4804:2001 *Occupational health and safety management systems—General guidelines on principles, systems and supporting techniques*,
- (d) Australian/New Zealand Standard AS/NZS 3000:2000 *Electrical installations* (known as the Australian/New Zealand Wiring Rules),
- (e) Australian Standard AS 3007:2004 *Electrical installations—Surface mines and associated processing plant*,
- (f) Australian Standard AS 1940—2004 *The storage and handling of flammable and combustible liquids*,
- (g) Australian Standard AS 2397—1993 *Safe use of lasers in the building and construction industry*,
- (h) Australian Standard AS/NZS 4240:1994 *Remote controls for mining equipment*,
- (i) Australian/New Zealand Standard AS/NZS ISO 9001:2000 *Quality management systems—Requirements*.

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This Regulation is made under the *Coal Mine Health and Safety Act 2002* (as amended by the *Mine Health and Safety Act 2004*), including section 192 (the general regulation-making power) and the sections mentioned in the Regulation.

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Clause 1 Coal Mine Health and Safety Regulation 2006

Part 1 Preliminary

Coal Mine Health and Safety Regulation 2006

under the

Coal Mine Health and Safety Act 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Coal Mine Health and Safety Regulation 2006*.

2 Commencement

- (1) This Regulation commences on 23 December 2006, except as provided by subclause (2).
- (2) Clauses 5, 13 (1) (a), (b) and (d)–(h), 14–16, 18–21, 29, 35, 77, 78, 84, 87, 145, 148 and 149 (1) (c)–(h) commence on 1 July 2007.

3 Definitions

- (1) In this Regulation:

ADG Code means *Australian Code for the Transport of Dangerous Goods by Road and Rail* approved by the Ministerial Council for Road Transport, as published by the Australian Government from time to time.

airborne dust includes respirable dust and inhalable dust.

Chairperson means the Chairperson of the Board.

competent—see subclause (2).

construction zone means a construction zone designated under clause 87.

control in relation to a risk—see clause 4.

Deputy Chairperson means the Deputy Chairperson of the Board.

explosive has the same meaning as in the *Explosives Act 2003*.

face zone of a mine means:

- (a) that area inbye of all points 200 metres outbye of a longwall face,
or

- (b) if there are any completed cutthroughs within that area, that area inbye of all points 200 metres outbye of the most inbye completed line of cutthroughs.

Gazetted means specified by the Chief Inspector by notice published in the Gazette.

handling includes the activities of conveying, manufacturing, processing, possessing, using, preparing for use, treating, dispensing, storing, packing, selling, supplying, importing into the State from another country, rendering harmless, abandoning, destroying or disposing.

hazardous zone means:

- (a) a return airway in a mine, or
- (b) that part of an intake airway in a ventilation district in a mine that is on the return side of such points as are:
- (i) 100 metres outbye the most inbye completed line of cutthroughs, or
 - (ii) 100 metres from, and on the intake side of, a longwall or shortwall face, or
- (c) a part of a mine in which there is a methane concentration of 1.25 per cent or greater in the general body of air, or
- (d) a part of a mine Gazetted as a hazardous zone.

incombustible content, in relation to roadway dust, includes any moisture contained in the dust.

inflammable material includes an inflammable gas, an inflammable liquid and an inflammable solid, as defined in the ADG Code as dangerous goods of class 2.1, class 3 and class 4.

inhalable dust has the same meaning as it has in Australian Standard AS 3640—2004 *Workplace atmospheres—Method for sampling and gravimetric determination of inhalable dust*.

inrush means an unplanned or uncontrolled flood of liquid, gas or material that has the potential to create a hazard.

intrinsically safe, in relation to a circuit or electrical apparatus, means explosion-protected in such a way that any spark or thermal effect produced in the circuit or apparatus is incapable of causing ignition of an explosive mixture of methane or other inflammable gases or vapours and air.

licensed means licensed under Part 5.

life cycle, in relation to plant or installations, includes the period of its design, manufacture, construction, installation, commissioning, operation, maintenance, repair, decommissioning and disposal.

member means any member of the Board.

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Clause 3 Coal Mine Health and Safety Regulation 2006

Part 1 Preliminary

mining supervisor, in relation to a coal operation, means a person identified in the management structure for the coal operation as a deputy, open cut examiner, under manager or manager.

powered winding system includes:

- (a) any plant Gazetted as such, and
- (b) a lift that provides access to the underground workings of a mine.

production area means a production area identified in an inspection program established in accordance with clause 15.

qualified electrical engineer means a person who holds the evidence of competence required by clause 162 to be a qualified electrical engineer.

qualified electrical tradesperson means a person who holds the evidence of competence required by clause 162 to be a qualified electrical tradesperson.

qualified mechanical engineer means a person who holds the evidence of competence required by clause 162 to be a qualified mechanical engineer.

registered mining surveyor means a surveyor registered as a mining surveyor under the *Surveying Act 2002*.

respirable dust has the same meaning as it has in Australian Standard AS 2985—2004 *Workplace atmospheres—Method for sampling and gravimetric determination of respirable dust*.

roadway includes any heading, cutthrough, crosscut, pillar split or lift or any part of any heading, cutthrough, crosscut, pillar split or lift.

roadway dust means dust on the floor, roof or sides of a roadway or on any other surfaces of a roadway and includes deposited float dust.

shot includes a multiple shot.

shotfiring apparatus includes an exploder and a tester.

supervisor includes a mining supervisor.

Note. **Supervisor** is defined in section 3 of the Act as a person nominated as a supervisor in the management structure for a coal operation.

surveying and drafting directions means directions given by the Surveyor-General under the *Surveying Act 2002*.

Note. As at the commencement of this clause, the relevant directions are those referred to in clause 4 (3) of the *Surveying Regulation 2006*.

the Act means the *Coal Mine Health and Safety Act 2002*.

ventilation regulator means a device to control the flow of ventilation through a ventilation split.

ventilation district means a part of a mine that is ventilated by a separate ventilation split.

Wiring Rules means AS/NZS 3000:2000 *Electrical Installations*, known as the Australian/New Zealand Wiring Rules.

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- (2) In this Regulation, a reference to a person being *competent* to exercise the functions of an office holder is a reference to a person holding the relevant evidence of competence specified in clause 162.
- (3) Notes included in this Regulation do not form part of this Regulation.

4 Obligations to control risk

- (1) For the purposes of this Regulation, an obligation to *control* a risk to health or safety (in any case in which the elimination of the risk is not reasonably practicable) is an obligation to take the following measures (in the order specified) to minimise the risk to the lowest level reasonably practicable:
- (a) firstly, substituting the hazard giving rise to the risk with a hazard that gives rise to a lesser risk,
 - (b) secondly, isolating the hazard from the person put at risk,
 - (c) thirdly, minimising the risk by engineering means,
 - (d) fourthly, minimising the risk by administrative means (for example, by adopting safe working practices or providing appropriate training, instruction or information),
 - (e) fifthly, using personal protective equipment.
- (2) A combination of the above measures is required to be taken to minimise the risk to the lowest level reasonably practicable if no single measure is sufficient for that purpose.
- (3) Any obligation in this Regulation to control a risk by taking specific risk control measures, or by taking specific risk control measures in a particular order, is in addition to the obligations referred to in subclauses (1) and (2).

5 Responsibilities held by more than one responsible person

If more than one person has a responsibility with respect to a particular matter under this Regulation:

- (a) each such person retains responsibility for the matter, and
- (b) the responsibility is to be discharged in a co-ordinated manner.

6 Act does not apply to certain places

The classes of places specified in Schedule 1 (not being places referred to in section 8 (2) of the Act) are prescribed for the purposes of section 8 (3) (a) of the Act.

Note. The Act also does not apply to any place specified by the Minister in a notice published in the Gazette under section 8 (3) (b) of the Act.

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Clause 7 Coal Mine Health and Safety Regulation 2006

Part 2 Duties relating to health, welfare and safety at coal operations

Part 2 Duties relating to health, welfare and safety at coal operations

Note. Section 11 of the *Coal Mine Health and Safety Act 2002* provides that that Act is to be read in conjunction with the *Occupational Health and Safety Act 2000*. Section 8 of the *Occupational Health and Safety Act 2000* requires an employer to ensure the health, safety and welfare at work of all the employees of the employer and to ensure that others at the employer's workplace are not exposed to risk. Section 20 requires an employee, while at work, to take reasonable care for the health and safety of people who are at the employee's place of work and who may be affected by the employee's acts or omissions at work. This Part imposes further duties relating specifically to health, welfare and safety at coal operations.

Section 13 of the *Occupational Health and Safety Act 2000* requires an employer to consult with the employees of the employer to enable those employees to contribute to the making of decisions affecting their health, safety and welfare at work.

Division 1 Operators of coal operations

7 Nomination of operator by colliery holder

- (1) For the purposes of section 17 (5) of the Act, if there is only one coal operation within a colliery holding, the nomination of the operator of a coal operation by the colliery holder must be in a form that contains at least the following information and signature:
 - (a) the name of the coal operation,
 - (b) a description of the area covered by the coal operation,
 - (c) the name of the colliery holder,
 - (d) the basis on which the colliery holder claims to be the colliery holder (including copies of any document establishing the colliery holder's right to mine for coal or to carry out coal mining purposes),
 - (e) whether there is, to the knowledge of the colliery holder, any other colliery holder for the coal operation and, if so, the name and contact details of that other colliery holder and the basis of the other colliery holder's right to mine for coal or to carry out coal mining purposes,
 - (f) the name of the person nominated as operator of the coal operation,
 - (g) the nominated operator's Australian Business Number (ABN),
 - (h) details of the relationship between the nominated operator of the coal operation and the colliery holder,
 - (i) the identity and contact details of the primary contact at the coal operation,
 - (j) the identity and contact details of an alternative contact at the coal operation,

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- (k) a detailed explanation (accompanied by copies of relevant supporting documents) of the basis on which the nominated operator is considered the employer with day to day control of the coal operation, including, but not limited to, the following particulars:
- (i) the total number of people who work at the coal operation,
 - (ii) the number of those people who are employees of the nominated operator,
 - (iii) the basis on which the people are considered employees rather than contractors,
 - (iv) whether there is any other employer with some day to day control of part of the coal operation and, if so:
 - (A) whether and, if so, on what basis and to what extent, the matters controlled by any such employer are subject to the nominated operator's control, and
 - (B) to the extent, if any, that the matters controlled by any such employer are not subject to the nominated operator's control—the level of such employer's day to day control of the coal operation compared with that of the nominated operator,
 - (l) the signature of the colliery holder or a person authorised to sign on behalf of the colliery holder,
 - (m) if the person who signs is not the colliery holder—the position held by the person.
- (2) For the purposes of section 17 (5) of the Act, if there is more than one separate and distinct coal operation within a colliery holding, the nomination of the operator of each coal operation by the colliery holder must be in a form that contains at least the following information and signature:
- (a) a detailed explanation of the basis on which each coal operation is considered a separate and distinct coal operation,
 - (b) in respect of each coal operation—the information required by subclause (1),
 - (c) the signature required by subclause (1).

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Clause 8 Coal Mine Health and Safety Regulation 2006

Part 2 Duties relating to health, welfare and safety at coal operations

8 Changes in details provided in nomination

- (1) If a nomination has been made under section 17 of the Act and, at some later time, there is a material change in the details included in that nomination (other than a change of the person nominated as operator of the coal operation), the colliery holder must inform the Chief Inspector of that change as soon as practicable.

Note. If an operator whose nomination has not been rejected ceases to be, or proposes to cease to be, the employer with the day to day control of the coal operation, the colliery holder is required by section 17 (9) of the Act to nominate a new operator in accordance with section 17.

- (2) To avoid doubt, subclause (1) requires the colliery holder to inform the Chief Inspector if the colliery holder changes its name.
- (3) For the purposes of section 17 (7) (c) of the Act, the Chief Inspector may reject a nomination under section 17 having regard to any change reported to the Chief Inspector under this clause within 28 days after the Chief Inspector receives the nomination.

9 Keeping of record of operator

- (1) A colliery holder must ensure that a record of the identity of the operator of each coal operation within the colliery holding is retained at the office of the coal operation.
- (2) That record must contain at least the following information:
 - (a) the name of the operator of the coal operation,
 - (b) the operator's Australian Business Number (ABN),
 - (c) the identity and contact details of the primary contact at the coal operation,
 - (d) the identity and contact details of an alternative contact at the coal operation.

10 Register of operators of coal operations

- (1) The Director-General is to establish and maintain a register of the operators of coal operations for the purposes of the Act.
- (2) Without limiting subclause (1), the register is to include the following particulars in relation to each operator:
 - (a) the name of the coal operation,
 - (b) the name of the operator,
 - (c) the operator's Australian Business Number (ABN),
 - (d) the identity and contact details of the primary contact at the coal operation,

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- (e) the identity and contact details of an alternative contact at the coal operation.
 - (3) The Director-General is to ensure that information from the register is made available to the public, free of charge, during ordinary office hours at each office of the Department within a region where coal is mined.

11 Colliery holder must give operator health and safety information

The following health and safety information is prescribed as the information that, under section 18 of the Act, a colliery holder must give the operator of a coal operation within the colliery holding:

- (a) any health and safety management system prepared for the coal operation, including any major hazard management plans required for the coal operation,
- (b) any relevant plans of the operation (including those required under section 47 (1) of the Act and any plans provided under clause 139),
- (c) any records relating to the coal operation required to be kept under the Act, or under the *Coal Mines Regulation Act 1982* in the 5 years immediately before its repeal, being records that are no more than 5 years old,
- (d) geological and geotechnical information concerning the coal operation,
- (e) any engineering assessments concerning the coal operation,
- (f) all other information available to the colliery holder that may reasonably be relevant to the development and implementation of a health and safety management system for the coal operation.

12 Duty of operator to review information

- (1) The operator of a coal operation must, as soon as practicable after receiving information supplied by a colliery holder under section 18 of the Act, review that information.
- (2) The review is to involve:
 - (a) people with appropriate engineering expertise, and
 - (b) the manager of mining engineering for the coal operation, and
 - (c) in the case of an underground mine:
 - (i) the manager of electrical engineering for the coal operation, and
 - (ii) the manager of mechanical engineering for the coal operation.

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Division 2 Health and safety management systems generally

Subdivision 1 Health and safety management systems generally

Note. Section 23 (3) of the Act specifies what must be included in a health and safety management system, namely system elements, any major hazard management plans that are required, the management structure and any contractor management plan required. Section 23 (3) (e) permits the regulations to prescribe additional matter that must be included in a health and safety management system, and section 23 (4) permits the regulations to require such a system to be consistent with any management system standard specified in the regulations.

13 Additional components of health and safety management system

- (1) For the purposes of section 23 (3) (e) of the Act, the health and safety management system for a coal operation must include the following (the specific contents of which are set out in clauses 15–21):
 - (a) ***an inspection program*** that makes provision for the regular inspection of those parts of the coal operation that people may work in or travel through:
 - (i) to detect the presence of hazards to safety or health, and
 - (ii) to bring the presence of any such hazards to the attention of appropriate people so as to initiate their effective control,
 - (b) ***information and communication arrangements*** that assist in meeting the requirements of the regulations under the *Occupational Health and Safety Act 2000* in relation to the provision of instruction, training and information to employees,

Note. As at the commencement of this clause, the relevant requirements were set out in clause 13 of the *Occupational Health and Safety Regulation 2001*.
 - (c) ***supervision arrangements*** that assist in meeting the requirements of the regulations under the *Occupational Health and Safety Act 2000* in relation to the supervision of employees,

Note. As at the commencement of this clause, the relevant requirements were set out in clause 14 of the *Occupational Health and Safety Regulation 2001*.
 - (d) in the case of an underground mine—***monitoring arrangements*** that ensure that sufficient monitoring plant of appropriate types is installed, used and maintained to detect risks to the safety or health of people working underground at the mine,

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- (e) ***an electrical engineering management plan*** covering the life cycle of electrical plant and installations, and electrical engineering practices, at the coal operation, that is developed, implemented and periodically reviewed through consultation with a qualified electrical engineer, to control risks as follows:
- (i) to prevent injury to people from sources of electrical energy,
 - (ii) to prevent uncontrolled fires where electrical energy is the ignition source,
 - (iii) to prevent initiation of gas or coal dust explosions by electrical energy,
 - (iv) to prevent unintended operation of plant,
 - (v) to provide electrical safeguards for electrical and non-electrical hazards, with a probability of failure appropriate to the degree of risk posed by the hazard,
 - (vi) to provide the means by which the safety of electrical plant and electrical engineering practices is or are managed, including requirements of the Act and this Regulation and any relevant requirements of the regulations made under the *Occupational Health and Safety Act 2000*,
- (f) ***a mechanical engineering management plan*** covering the life cycle of mechanical plant and installations, and mechanical engineering practices, at the coal operation, that is developed, implemented and periodically reviewed through consultation with a qualified mechanical engineer, to control risks as follows:
- (i) to control risks to health and safety from mechanical plant and installations over their life cycle,
 - (ii) to prevent injury to people from sources of mechanical energy,
 - (iii) to provide safeguards to prevent the release of uncontrolled mechanical energy and to prevent unintended operation of mechanical plant,
 - (iv) to prevent catastrophic failure of mechanical plant or installations,
 - (v) to prevent uncontrolled fires being initiated or fuelled by mechanical plant or installations,
 - (vi) to prevent initiation of gas or coal dust explosions by mechanical energy,
 - (vii) to minimise exposure to toxic or harmful materials associated with mechanical plant and installations,

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- (viii) to provide safeguards for mechanical plant and installations, with a probability of failure appropriate to the degree of risk posed by any mechanical plant or installation,
 - (ix) to generally provide the means by which the safety of mechanical plant and installations is managed including requirements of the Act and this Regulation and relevant plant safety requirements of the regulations made under the *Occupational Health and Safety Act 2000*,
 - (g) conditions (***withdrawal conditions***) under which people are to be withdrawn, and to remain withdrawn, from the coal operation or parts of the coal operation as a precautionary measure when conditions of risk or a threat to health or safety (not amounting to an emergency) warrant such action,
 - (h) in the case of an underground mine—***ventilation arrangements***.
- (2) In this clause:
mechanical energy means all energy associated with plant and installations, other than electrical energy.

14 Health and safety management systems must be consistent with Australian Standard

- (1) For the purposes of section 23 (4) of the Act, a health and safety management system must be consistent with Australian/New Zealand Standard AS/NZS 4804:2001 *Occupational health and safety management systems—General guidelines on principles, systems and supporting techniques*.
- (2) Despite subclause (1), a health and safety management system is not required to be consistent with that Standard to the extent that the system applies to emergencies.

Subdivision 2 Contents of additional components of health and safety management systems

Note. The duties arising under an inspection program or information and communication arrangements under this Subdivision are in addition to duties of employees under section 59 of the Act.

15 Inspection program

- (1) The inspection program for a coal operation must make provision for the following:
 - (a) the division of the coal operation into inspection areas,
 - (b) the identification of certain inspection areas as production areas, being:

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- (i) in the case of an open cut mine—each area where mining operations are being conducted, or
 - (ii) in the case of an underground mine—each area in the mine within which there is a place where coal or stone is mined (other than places at which coal or stone is mined for repairing or enlarging roadways), being areas:
 - (A) that include all places within 100 metres of a place where mining occurs that are in the same ventilation split as that place, and
 - (B) that do not start within a hazardous zone, and
 - (C) whose sizes are determined by taking into account the ability of people to effectively carry out inspections required by the inspection program,
 - (c) the identification of any place in an underground mine (other than places at which coal or stone is mined for repairing or enlarging roadways) that would otherwise be a production area and that is to be treated as not being within a production area during any period of not less than one shift when coal or stone is not intended to be mined,
 - (d) the clear and durable marking of the start of a production area in a roadway through which people normally travel,
 - (e) the assignment of a competent person to each inspection area to carry out inspections in that area, including:
 - (i) in the case of an inspection area that is a production area in an open cut mine—a person who is competent to exercise the function of a mining supervisor for an open cut mine, or
 - (ii) in the case of an inspection area that is a production area in an underground mine—a person who is competent to exercise the function of a mining supervisor for an underground mine,
 - (f) in the case of an underground mine—a competent person within a production area remaining within that area while production is taking place unless replaced by another competent person (who must be qualified for assignment to carry out inspections in the area),
 - (g) the conduct of regular inspections of all safely accessible parts of the coal operation with the frequency of inspections being dependent on the risks present,
 - (h) the durable recording of results of inspections,

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- (i) the means by which any concerns raised around the size of production areas, and the ability of those responsible to adequately perform required inspections, are to be resolved,
- (j) the bringing of concerns arising from an inspection to the attention of:
 - (i) those whose health or safety may be affected by the subject matter of the concern, and
 - (ii) those within the management structure of the coal operation whose area of responsibility and accountability includes the subject matter of the concern,
- (k) the reporting of any remedial action taken as a result of an inspection to a person more senior in the management structure of the coal operation than the person whose area of responsibility and accountability includes the subject matter of the concern,
- (l) the bringing of concerns arising from any remedial action taken as a result of an inspection to a person more senior in the management structure of the coal operation than the person whose area of responsibility and accountability includes the subject matter of the concern,
- (m) the regular and timely review of reports of inspections, or other information from those who carry out inspections, by those in the management structure whose area of responsibility and accountability includes the subject matter of the report or information,
- (n) if a regular routine of inspections for a production area is interrupted, for the area to be inspected by a competent person before any other person enters the area,
- (o) for employees to examine their place of work for risks prior to commencing work and during the course of their work,

Note. Section 59 (3) of the Act requires an employee who works at a coal operation to immediately report to his or her immediate supervisor any situation that the employee believes could present a risk to health and safety and that is not within the employee's competence to control. Section 62 of the Act applies that section to an employee of a contractor who works at a coal operation.
- (p) in the case of an open cut mine, the carrying out of at least one inspection each shift,
- (q) for the inspection of the roof and sides of roadways underground by a person who is competent to exercise the function of a mining supervisor for an underground mine (or a person with equivalent competence in the inspection of roofs and sides of roadways underground),

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- (r) in the case of an underground mine:
- (i) the inspection of places, including, but not limited to, all safely accessible roadways, goaf edges, shafts and drifts, and
 - (ii) the inspection of production areas, including, but not limited to:
 - (A) inspection for the presence of inflammable and toxic gases before connecting power to any plant, and
 - (B) inspection, at intervals not exceeding 2 hours, of each face area where coal or stone is mined, and
 - (C) inspection, at intervals not exceeding 5 hours, of all other places where people work, and
 - (D) inspection, at least once each shift, of all safely accessible places in the production area, and
 - (iii) inspection of belt conveyors, including but not limited to:
 - (A) inspection of each operating belt conveyor at least once each shift, and
 - (B) inspection of any belt conveyor that has been shut down to detect the presence of any overheating, smouldering or other condition likely to cause a fire, and
 - (iv) inspection of places other than production areas, including, but not limited to:
 - (A) inspection at least once each shift of all places where people work, and
 - (B) inspection at least once every 24 hours of all roadways where people regularly travel, and
 - (C) inspection at least once every 7 days of all safely accessible places, and
 - (v) inspection for the presence of inflammable gas prior to the supply of electric power to any underground part of the coal operation.

- (2) In this clause:

inspection area means a portion of the area of a coal operation determined by the operator to be an inspection area for the purposes of this clause.

production area means a portion of the area of a coal operation determined by the operator to be a production area for the purposes of this clause in accordance with subclause (1) (b).

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16 Information and communication arrangements

The information and communication arrangements for a coal operation must make provision for the following:

- (a) regular (including at least daily) communication to supervisors at the coal operation, by a person senior to them in the management structure of the coal operation, in relation to any matters related to safety or health and affecting the carrying out of their duties,
- (b) daily communication to all people at work at the coal operation, by a supervisor, in relation to any matters related to safety or health and affecting the carrying out of their duties,
- (c) communication between supervisors on successive shifts in any part of the coal operation concerning any matters related to safety or health and affecting the carrying out of their duties,
- (d) communication to those people who are to work in parts of the coal operation that are subject to an inspection, before they enter those parts, relating to the status of those parts of the coal operation,
- (e) communication in a comprehensible manner to people working at the coal operation of information concerning the provisions of the Act and this Regulation relevant to the duties of people working at a coal operation,
- (f) a requirement that a person in the management structure of the coal operation (not being the operator) who receives an advice given under section 150 of the Act must give the advice, or a copy of it, to the operator of the coal operation as soon as practicable,
- (g) a requirement that the operator of the coal operation who receives:
 - (i) an advice or a copy of an advice given under section 150 of the Act, or
 - (ii) a notice served under section 175 of the Act, or
 - (iii) a report by a site check inspector made under section 170 of the Act,must, as soon as practicable, cause a copy of it to be displayed for a period of not less than 28 days in a manner that will allow the people working at the coal operation to become aware of its contents,
- (h) a requirement that information, orders or publications relating to safety or health sent to the coal operation by the Department, the Chief Inspector or another government official and relevant to the duties of any people working at the coal operation must be communicated to those people,

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- (i) a requirement that copies of any other advice, notice or order given, served or made by a government official in relation to the coal operation must be displayed by the recipient in accordance with the advice, notice or order,
 - (j) a requirement that copies of any advice, notice or order given, served or made by a government official in relation to the coal operation must be provided to an industry check inspector,
 - (k) a requirement that secure facilities be provided in appropriate places at the coal operation to ensure the effective communication of safety or health related information relevant to the daily activities of people working at the coal operation,
 - (l) communications from the surface part of the coal operation to people at the following locations underground by means of an intrinsically safe voice communication system (explosion protection category Ex ia):
 - (i) every underground entrance to a shaft or outlet used for providing means of ingress and egress to people working at the coal operation,
 - (ii) every place underground where plant is regularly serviced or charged,
 - (iii) a place within each underground production area at which the telephone is reasonably accessible and not likely to be damaged,
 - (iv) a place in proximity to underground switch-gear used for the purpose of isolating sections of the main underground electricity distribution system,
 - (v) a place in proximity to every underground conveyor belt drive head and transfer or loading point.

Note. As at the commencement of this clause, clause 13 of the *Occupational Health and Safety Regulation 2001* requires employers to provide certain instruction, training and information. Clause 16 of that Regulation requires an employer to obtain certain information necessary to enable the employer to fulfil certain of the employer's occupational health and safety responsibilities.

17 Supervision arrangements

The supervision arrangements for a coal operation must make provision for the following:

- (a) all people within a production area on the surface part of the coal operation, except a mining supervisor, to be supervised by a person who is competent to exercise the function of a mining supervisor for an open cut mine,

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- (b) all people in the underground part of the coal operation, except a mining supervisor, to be supervised by a person who is competent to exercise the function of a mining supervisor for an underground mine,
- (c) a mining supervisor to regularly attend places where people under his or her supervision are working,
- (d) a mining supervisor not to engage in activities in a way that may compromise his or her ability to supervise people with respect to their health and safety,
- (e) a mining supervisor's duties to be such as to ensure that he or she has sufficient time to effectively detect changes or features in the working environment that may indicate, or result in, a hazard to the safety and health of people,
- (f) people entering production areas to take all reasonably practicable steps to make their presence known to the mining supervisor.

18 Monitoring arrangements

- (1) The monitoring arrangements for an underground mine must make provision for the following:
 - (a) maintaining an accurate plan of the locations of fixed gas monitoring plant in accordance with any Gazetted direction,
 - (b) providing a recording barometer at the surface part of the mine,
 - (c) maintaining and calibrating all monitoring plant in accordance with any Gazetted direction,
 - (d) providing to mining supervisors and other people identified by the operator as requiring this equipment a methanometer and means of detecting a deficiency of oxygen,
 - (e) equipping diesel powered machinery that operates in a return airway with a methane detector set to alarm when the proportion of methane in the air reaches or exceeds 1 per cent by volume,
 - (f) installing a continuous methane monitor, set to alarm when the proportion of methane in the air reaches or exceeds 1 per cent by volume and to trip off the electric power supply to the face machine when the proportion of methane in the air reaches or exceeds 2 per cent by volume, on any face machine in use at the operation,

Note. Clause 15 (1) (r) (ii) (A) requires an inspection for the presence of inflammable and toxic gases before power is connected to any plant.

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- (g) installing a continuous methane monitor, set to trip off the electric power supply to the face when the proportion of methane in the air reaches or exceeds 1.25 per cent by volume, on any longwall, shortwall or miniwall in use at the operation,
 - (h) the strategic positioning of detection heads of gas monitoring plant to maximise the likelihood of detecting the gas being monitored while producing accurate readings or activation of alarms,
 - (i) complying with any Gazetted requirements for methane monitoring plant, including requirements dealing with the following:
 - (i) the positioning of detection heads,
 - (ii) the location, visibility and clarity of displayed values of methane concentrations or visible signals,
 - (iii) the capture, storage, retrieval and dissemination of information relating to methane concentrations detected,
 - (iv) the recording of the events causing a monitor to give a visible signal or trip off electric power,
 - (j) a continuous monitoring system for monitoring the gas content of return air at or near any upcast shafts and outbye ventilation splits, unsealed goafs and waste workings,
 - (k) gas monitoring arrangements that:
 - (i) specify the locations at which the gas content of air is to be monitored, and
 - (ii) specify in respect of each type of gas the gas concentration level at which alarms will be activated, and
 - (iii) define who is authorised to set or change alarm levels, and
 - (iv) specify how those alarm settings or changes are to be recorded, and
 - (v) define who is responsible for the acknowledgment of alarms and the recording of acknowledgments, and
 - (vi) define who is responsible for communicating the occurrence of alarms and initiating action as a result of alarms, and
 - (vii) set out response plans to be activated as a result of alarms, and
 - (viii) specify how the actions of people responding to an alarm (and the identities of those people) are to be recorded,
 - (l) complying with any direction of the Chief Inspector published in the Gazette that carbon dioxide must be included in gas content in relation to a coal operation or class of coal operations.

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(2) In this clause:

face machine includes a continuous miner, a mobile roof bolter or other Gazetted type of machine.

gas content means the content in the air of methane, carbon monoxide and oxygen and (in relation to an underground mine the subject of a direction of the Chief Inspector published in the Gazette that the gas content must include carbon dioxide) carbon dioxide.

19 Electrical engineering management plan

(1) The electrical engineering management plan for a coal operation must make provision for the following:

- (a) the installation, commissioning, maintenance and repair of electrical plant and installations being undertaken only by a qualified electrical engineer or qualified electrical tradesperson, or people under the supervision of a qualified electrical engineer or qualified electrical tradesperson,
- (b) the standards of engineering practice for electrically powered plant, electrically controlled plant, installations, electrical engineering practices used at the coal operation, and, in particular, all electrical installations located on the surface at a coal operation being required to comply with the Wiring Rules and AS 3007:2004 *Electrical installations—Surface mines and associated processing plant*,
- (c) the use of electrical plant only of a Gazetted type in a hazardous zone,
- (d) the maintenance of explosion-protected plant and installations in an explosion-protected state,
- (e) the overhaul and repair of electrical plant and installations, including the following:
 - (i) the overhaul and repair of explosion-protected plant (being work that may alter the explosion-protected properties of the plant) being carried out only by a person licensed to carry out that work,
 - (ii) the repair of flexible reeling, trailing and feeder cables for use in a hazardous zone being carried out only by a person licensed to carry out those repairs,
- (f) the prevention of arcing faults compromising explosion-protection properties of plant and installations (including cables),
- (g) the prevention of the ignition of gas by a static electric charge,
- (h) the provision of electrical protection on all electric circuits, including the following:

- (i) the construction of electrical protection devices to an appropriate standard,
- (ii) the interruption of the supply of electricity to mobile or portable electrical apparatus when the continuity of the connection to earth is compromised,
- (iii) the prevention of the connection of electrical power to explosion-protected mobile or portable electrical apparatus in the event of an earth fault on a flexible cable supplying the apparatus,
- (i) the provision of effective earthing, including the following:
 - (i) the minimisation of risk from touch, transfer or step potential,
 - (ii) the prevention of the effects of lightning being transferred to the underground parts of the coal operation,
 - (iii) the limitation of earth fault currents to mobile plant fed via flexible cables and to electrical plant in the underground parts of the coal operation,
- (j) the control of electrical energy in parts of the coal operation, including the provision of suitable switch gear to safely switch electric power in the coal operation and parts of the coal operation,
- (k) the interruption of the supply of electricity in any of the following circumstances:
 - (i) in the presence of inflammable gas,
 - (ii) if ventilation falls below a specific quantity (to be determined by the operator in consultation with the manager of mining engineering and the manager of electrical engineering),
 - (iii) if inspections required by the inspection program under clause 15 have not been conducted,
 - (iv) in the event of an electrical fault,
 - (v) if there has been a failure to maintain plant in accordance with the electrical engineering management plan,
 - (vi) if unsafe electrical plant or practices have been detected,
- (l) the safe restoration of the supply of electricity by competent people,
- (m) the control of portable electrical plant in the underground parts of the coal operation and, in particular, the use of non-explosion-protected plant in a hazardous zone only under Gazetted conditions,

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- (n) the safe operation of high voltage installations throughout their life cycle,
- (o) the prevention of live electrical work on electrical plant and installations under the control of the operator or a contractor, except:
 - (i) where that work is carried out on a circuit at or below extra low voltage (as defined by the Wiring Rules), or
 - (ii) where that work is carried out in accordance with any relevant requirements of the regulations made under the *Occupational Health and Safety Act 2000*,
- (p) the safety from hazards within the responsibility of the operator of the coal operation of people undertaking installation, maintenance or emergency work on an electricity supply authority's infrastructure,
- (q) the reasonable access of people undertaking installation, maintenance or emergency work on an electricity supply authority's infrastructure to that infrastructure,
- (r) a commissioning, testing and notification process prior to the initial application of power to circuitry, including the following:
 - (i) commissioning and testing of electrical plant and installations, to the standard set out in clause 6 of the Wiring Rules, to be undertaken by a qualified electrical engineer or a qualified electrical tradesperson,
 - (ii) if the commissioning and testing are undertaken by a qualified electrical engineer—requiring the qualified electrical engineer to make a record,
 - (iii) if the commissioning and testing are undertaken by a qualified electrical tradesperson—requiring that a qualified electrical engineer be notified,
 - (iv) if a form is Gazetted for the record or notification—requiring the record or notification to be in the relevant Gazetted form,
 - (v) requiring the operator to retain notifications for a Gazetted period,
- (s) specific procedures for the following:
 - (i) use of electric welding plant,
 - (ii) use of electrical test instruments,
 - (iii) work near overhead power lines and cables,

- (t) the placing of appropriate signage, notices, plans and electrical distribution diagrams at electrical switchgear and other prominent positions, being signage, notices, plans and diagrams that do the following:
 - (i) warn of the presence of electricity,
 - (ii) provide advice on what to do in the event of a fire on or in electrical plant,
 - (iii) provide advice on what to do in the event of an electric shock and other electrical injuries,
 - (iv) provide advice on the isolation point for the electrical plant,
 - (v) provide advice on which electrical plant the switch gear supplies,
 - (vi) show the location of all high voltage cables and switchgear on a mine plan,
 - (vii) show all points of isolation available on the electrical distribution system,
 - (u) plant and procedures to ensure that, in the event of a failure of the main ventilation system, the electric power supply entering the coal operation (other than power to intrinsically safe plant):
 - (i) is automatically cut off, as soon as practicable, and
 - (ii) is incapable of being restored before the main ventilation system is repaired and restarted, and
 - (iii) is not restored until it is safe to do so,
 - (v) access procedures for working on high voltage installations that include the isolation of electrical installation, testing for the presence of electricity, the application of locks to switch gear to prevent inadvertent energisation of an isolated circuit and the application of working earths.
- (2) In this clause:
- electricity supply authority*** has the same meaning as in the *Electricity (Consumer Safety) Act 2004*.

20 Mechanical engineering management plan

The mechanical engineering management plan for a coal operation must make provision for the following:

- (a) the standards of engineering practice for mechanical plant and installations throughout their life cycle at the coal operation, including the following:
 - (i) arrangements for the acquisition and operation of fit-for-purpose plant and installations,

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- (ii) inspection and testing systems to ensure plant and installations are safe to operate,
 - (iii) arrangements for the maintenance, repair and alteration of plant and installations,
 - (iv) the competence of people who may deal with plant and installations during the life cycle of the plant and installations at the coal operation,
 - (v) arrangements for the supervision of people installing, commissioning, maintaining and repairing mechanical plant to be undertaken by people with appropriate mechanical engineering competence or qualified mechanical tradespersons,
 - (vi) safe work procedures for people who may deal with plant and installations during the life cycle of the plant and installations at the coal operation,
- (b) the safe operation of conveyors, winding plant and mobile plant (beyond requirements under the transport arrangements in the surface transport management plan prepared under clause 30 and the underground transport management plan prepared under clause 31),
- (c) the safety of structures and mechanical installations,
- (d) the fitting of mechanical operator protective devices to protect from the risk of mobile plant overturning, objects falling on or coming into contact with the operator and the operator being ejected from the seat, in the form of the following:
- (i) rollover protection and falling object protection on mobile plant that is suitable for the intended surface and the underground environment,
 - (ii) seat belts or other operator restraint devices on mobile plant,
 - (iii) protective canopies on continuous miners when controlled by an on-board operator,
- (e) the safe use and storage of pressurised fluids,
- (f) means for the prevention, detection and suppression of fires on mobile plant and conveyors,
- (g) the control of diesel-engined plant and installations, including the following:
- (i) the use only of plant and installations containing a registered diesel system in the underground parts of the coal operation,

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- (ii) the maintenance of explosion-protected plant and installations in an explosion-protected state,
 - (h) the use, as Gazetted, of fire-resistant hydraulic fluids in the underground parts of the coal operation,
 - (i) management systems to control diesel pollutants in the underground parts of a coal operation.

21 Ventilation arrangements

Ventilation arrangements for an underground mine must provide for the following:

- (a) the design, monitoring and control of the underground ventilation arrangements (including design, monitoring and control required to support gas management, spontaneous combustion management or other hazard management arrangements at the mine that are dependent on ventilation),
- (b) the supply to all accessible parts of the mine of sufficient ventilation:
 - (i) to provide air that contains by volume not more than 0.005 per cent carbon monoxide and not more than 1.25 per cent carbon dioxide, and
 - (ii) to render harmless any inflammable gases or other atmospheric contaminant, to the degree required to conform with the regulations made under the *Occupational Health and Safety Act 2000*,
- (c) the maintenance of the methane concentration in the general body of air:
 - (i) at not more than 0.25 per cent by volume in an intake airway at the start of a hazardous zone, and
 - (ii) at not more than 2 per cent by volume in a hazardous zone,
- (d) the action to be taken if the limits referred to in paragraphs (b) and (c) are found, or reasonably suspected, to be exceeded at a place at the mine,
- (e) the maintenance of return airways in a condition so that they are accessible to those who must inspect them or travel through them in an emergency,
- (f) the control of ventilation,
- (g) reporting procedures relating to ventilation,
- (h) the maintenance of ventilation records and plans,
- (i) the manner of sealing of parts of the mine and the precautions to be taken in sealing parts of the mine,

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- (j) audits of the operation of the arrangements and for periodic reviews (at intervals not exceeding 2 years) of the effectiveness of the arrangements,
- (k) any matters required to put into effect the provisions of Division 3 of Part 4.

Subdivision 3 Other matters

22 Information to be supplied to Chief Inspector and industry check inspector

For the purposes of section 25 of the Act, the following information relating to the health and safety management system for a coal operation is specified as being required to be supplied by the operator of the coal operation to the Chief Inspector and an industry check inspector:

- (a) an outline of the contents of the health and safety management system for the operation,
- (b) a copy of the health and safety policy required by section 23 (3) (a) of the Act,
- (c) an identification, by means of an organisation chart, of people responsible for the major functions in the management structure of the operation,
- (d) an outline of each major hazard management plan of the operation including any codes, standards or guidelines utilised in the plan,
- (e) an outline of the electrical engineering management plan for the operation,
- (f) an outline of the mechanical engineering management plan for the operation.

23 Period for re-submission of health and safety management system

For the purposes of section 26 (3) of the Act, the period prescribed for re-submission of a health and safety management system is 3 months.

24 Information to be supplied on amendment of health and safety management system

For the purposes of section 29 (1) of the Act, the information concerning an amended health and safety management system for a coal operation is the information required by clause 22, to the extent that it is affected by the amendment. That information is required to be sent to the Chief Inspector and an industry check inspector.

25 Withdrawal or revision of amendment of health and safety management system

For the purposes of section 29 (4) of the Act, the period of 28 days is prescribed.

26 Amendments to health and safety management system that may not be implemented immediately

For the purposes of section 29 (5) of the Act, amendments of the following kinds cannot be implemented during the period of 28 days after informing the Chief Inspector of the amendment:

- (a) the addition or removal of a major hazard management plan in response to the addition or removal of a major hazard as being one to which Subdivision 2 of Division 2 of Part 5 of the Act applies,
- (b) a change of the codes, standards or guidelines utilised in a major hazard management plan, but not a change to the content of codes, standards or guidelines,
- (c) changes in the responsibility for major functions covered by the management structure.

27 Former operator must return information

For the purposes of section 31 of the Act, the functions prescribed are the functions of the operator of updating or modifying the information provided to the operator by the colliery holder under section 18 of the Act.

Division 3 Major hazards and major hazard management plans

Note. A major hazard will be one to which Subdivision 2 of Division 2 of Part 5 of the Act applies if:

- (a) it is prescribed by regulations made under section 32 of the Act (see clause 28 below), or
- (b) it is identified as a major hazard after the Minister has declared under section 33 of the Act that the operator of a coal operation, or the operators of a class of coal operations, must undertake a specified process or specified processes to identify any major hazard that affects the coal operation.

In addition, under section 34 of the Act, the Minister may declare that a coal operation, or class of coal operations, is subject to a risk from mining from a major hazard to which Subdivision 2 of Division 2 of Part 5 of the Act applies.

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Part 2 Duties relating to health, welfare and safety at coal operations

Subdivision 1 Preliminary

28 Prescribed major hazards

For the purposes of section 32 of the Act, the following hazards to people are prescribed as major hazards to which Subdivision 2 of Division 2 of Part 5 of the Act applies:

- (a) in relation to all surface parts of a coal operation:
 - (i) hazards arising from slope instability (including high walls, low walls, stockpiles and overburden dumps), and
 - (ii) hazards arising from the use and operating environment of plant used for the transport of people or materials on the surface part of the operation,
- (b) in relation to all underground parts of a coal operation:
 - (i) hazards arising from the transport of people and materials, in particular from transport that is operated in the underground parts of the coal operation and locomotives that are operated on the surface part of the coal operation where the surface rail system operates jointly with the underground system, and
 - (ii) hazards arising from strata failure, and
 - (iii) hazards arising from inrush into the underground parts of the coal operations of:
 - (A) water or other fluid materials, or any materials that become fluid when wet, or
 - (B) inflammable or noxious gases, and
 - (iv) hazards arising from fire and explosion, and
 - (v) hazards arising from the initiation and propagation of coal dust explosions, and
 - (vi) outbursts of coal and gas, and
 - (vii) spontaneous combustion,
- (c) in relation to all parts of a coal operation:
 - (i) hazards arising from the handling of explosives, and
 - (ii) hazards arising from airborne dust.

Subdivision 2 Contents of major hazard management plans

Note. Section 36 of the Act requires a major hazard management plan:

- (a) to state how the health and safety of the people who work at or are affected by the coal operation will be protected from the major hazard, and
- (b) to make provision for the matters prescribed by the regulations.

This Subdivision prescribes the matters for which major hazard management plans must make provision.

29 Contents of major hazard management plan: slope stability management plan

For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard arising from slope instability must make provision for the monitoring of the control and stability of high walls, low walls, stock piles and overburden dumps in so far as the safety of people at the operation may be affected.

30 Contents of major hazard management plan: surface transport management plan

- (1) For the purposes of section 36 of the Act, a major hazard management plan in relation to hazards arising from the use and operating environment of plant used for the transport of people or materials on the surface part of the operation (*transport*) must make provision for the following matters:
 - (a) the conditions under which the transport may be used,
 - (b) transport being used only within its design parameters,
 - (c) the design (including appropriate signage and provision of adequate windrows) of roadways on which the transport may operate,
 - (d) the maximum loads that may be carried or towed by the transport, whether by reference to weight, dimensions or other criteria,
 - (e) the maximum speeds at which the transport may operate,
 - (f) the steps to be taken by the operators of the transport to ensure that the transport is safe for use,
 - (g) the measures to be taken when people are conveyed on the transport, including the segregation of people from loads, the provision of seating and the wearing of seat belts or the use of other operator restraint devices,
 - (h) the operation of the transport on roadways where the condition of the roadways may adversely affect safety,
 - (i) the loading and unloading of the transport,
 - (j) the interaction of heavy and light transport,

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- (k) the separation of people who are not being transported from moving transport,
 - (l) the precautions to be taken in the tipping of coal or stone,
 - (m) any other matters identified in the operator's regular re-assessment of risks.
- (2) In this clause:
- windrow** means a ridge of material formed on the outer edge of a roadway to indicate the position of the edge and to provide a physical barrier to prevent vehicles from going over the edge.

31 Contents of major hazard management plan: underground transport management plan

For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard comprising hazards arising from the transport of people and materials, in particular from transport that is operated in the underground parts of the coal operation and locomotives that are operated on the surface part of a coal operation where the surface rail system operates jointly with the underground system, must make provision for the following matters:

- (a) provision of sufficient means of transport to ensure that risk to people at a coal operation, during access and egress from their place of work, is controlled,
- (b) conditions for the safe operation of the transport,
- (c) transport being used only within its design parameters,
- (d) minimum dimensions and the condition of roadways on which the transport is to operate,
- (e) the maximum loads that may be carried or towed by the transport, whether by reference to weight, dimensions or other criteria,
- (f) the safe carriage of people, including the segregation of people from loads, the provision of seating and the wearing of seat belts or the use of other operator restraint devices,
- (g) the safety of people working, or travelling, in or near roadways used by the transport,
- (h) the safe parking, refuelling and re-charging of the transport,
- (i) the appointment of people to operate the transport,
- (j) steps to be taken prior to operating the transport,
- (k) steps to be taken on discovery of a defect in the transport.

32 Contents of major hazard management plan: strata failure management plan

For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard comprising hazards arising from strata failure must make provision for the following matters:

- (a) the estimation of the geological conditions likely to be encountered in roadway development,
- (b) the assessment of the stability of roadways to be developed in those geological conditions,
- (c) the recording of geological conditions that may affect roadway stability,
- (d) the development of support measures that will provide roadway stability in those geological conditions,
- (e) calculations (including maximum roadway width and the minimum dimensions of coal pillars) to determine the probability of instability to be assigned to any coal pillar, consistent with the pillar's role or roles over its life,
- (f) the preparation and distribution of support plans that clearly describe the following:
 - (i) the type of support,
 - (ii) the dimensions of the support,
 - (iii) the locations where there are varying types of supports in use,
 - (iv) the distance between supports,
 - (v) the maximum distance roadways can be advanced before support is installed,
 - (vi) the means of roadway support required to be installed in a manner such that they may be readily understood by those required to install the roadway support,
- (g) other information necessary to enable an employee to install support according to the requirements of the management plan,
- (h) safe, effective and systematic work methods for the installation, and subsequent removal when required, of the roadway support (including support in connection with the carrying out of roof brushing operations or the recovery of plant),
- (i) the availability of adequate plant and resources to effectively install or remove the roadway support,
- (j) the monitoring of the stability of roadways after development and support installation,

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- (k) the training of employees in support design principles, support plan interpretation, placement and removal of support, understanding the need for and the importance of the various support systems and recognition of indicators of change that may affect roadway stability,
- (l) the recording of strata failures that have the potential to cause serious injury (such as a notifiable incident under clause 55) to people,
- (m) a description of the following features and any special provision made for them:
 - (i) any multi-seam workings,
 - (ii) any mining that has the potential to cause windblast or rapid stress change,
 - (iii) any mining at depths of less than 50 metres,
 - (iv) any coal pillars with a pillar width to pillar height ratio of 4:1 or less,
- (n) a prohibition on people entering an underground place at the coal operation that is not supported in accordance with the management plan, unless the person does so for the purpose of erecting support, in which case temporary support must be used,
- (o) a prohibition on mining in any place at the coal operation unless there is sufficient support for the place in accordance with the requirements of the management plan,
- (p) a statement that nothing in the management plan is to be read as preventing the installation of more strata support or support installation at more frequent intervals than is required by the management plan.

33 Contents of major hazard management plan: inrush management plan

For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard comprising hazards arising from any inrush into the underground parts of the coal operation of water or other fluid materials, or any materials that become fluid when wet, or inflammable or noxious gases, must make provision for the following matters:

- (a) in assessing the risk of inrush, the consideration of the originals of any relevant plans and any relevant files or other material held by, or accessible by, the Department,
- (b) the identification of each potential source of inrush (for example, current or disused mine workings (in the same seam or another seam), surface waters or aquifers), which must include the following:

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- (i) the consideration of all available relevant information concerning the risk of inrush to the operation,
 - (ii) an assessment of the nature and magnitude of all potential sources of inrush,
 - (iii) a record of assumptions made in the development of the inrush management plan,
 - (iv) for each potential source of inrush, an assessment of the worst case position of the potential source of inrush having regard to such things as the accuracy of plans of the mine, future mining operations and geological changes,
- (c) the forming by the manager of mining engineering of an opinion as to whether or not it is practicable to remove or render harmless each identified potential source of inrush,
 - (d) if the manager of mining engineering is of the opinion that it is not practicable to remove or render harmless a potential source of inrush—the documenting by the manager of the reasons for being of that opinion and the retention of that document at the coal operation,
 - (e) an objective summary of the nature and magnitude of the identified risks of inrush,
 - (f) the measures to be taken to prevent inrushes,
 - (g) the identification and maintenance of inrush control zones between the mine workings and each identified potential source of inrush,
 - (h) any special systems of working developed for mining and working in inrush control zones,
 - (i) any assumptions made in the development of measures to prevent inrushes,
 - (j) maintenance of the major hazard management plan so that at all times it implements the best available knowledge of risk of inrush at the mine,
 - (k) the reviewing and updating of the major hazard management plan before the mine is extended into any new area,
 - (l) ensuring that an inrush control zone identified in the major hazard management plan:
 - (i) is of sufficient thickness to safely separate the mine workings from the relevant potential source of inrush, or

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- (ii) in the case of a potential source of inrush that is not an accessible place in the same mine—is sufficient to provide a separation of 50 metres of solid rock between the mine workings and the assessed worst case position of the potential source of inrush.

Note. Clause 49 prescribes working within an inrush control zone as a high risk activity to which Subdivision 6 of Division 2 of Part 5 of the Act applies.

34 Director-General to make certain information available

The Director-General is to take reasonable steps to make information that the operator of a coal operation requests that concern inrush available to the operator for the purposes of the preparation of the major hazard management plan.

35 Contents of major hazard management plan: fire and explosion management plan

For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard comprising hazards arising from fire and explosion must make provision for the following matters:

- (a) regular assessment of the fire and explosion risk at the coal operation,
- (b) implementation of control measures to effectively manage risks identified,
- (c) the means by which the requirements of Subdivision 1 of Division 1 of Part 4 relating to fire and explosion risk are to be implemented at the coal operation.

36 Contents of major hazard management plan: dust explosion management plan

For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard comprising hazards arising from the initiation and propagation in the underground parts of a coal operation of dust explosions must make provision for the following matters:

- (a) the minimisation of production and accumulation of roadway dust,
- (b) the maintenance, through the application of stone dust or otherwise, of the incombustible content of roadway dust required by Division 2 of Part 4,
- (c) the required application rates and means of application of stone dust to be applied in working places,
- (d) the methods by which parts of advancing working places that have not yet had stone dust applied are to be maintained in a safe condition,

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- (e) the means by which stone dust is to be applied to surfaces in return roadways in close proximity to working faces,
 - (f) the application of stone dust to previously untreated roadway surfaces (resulting from roof or rib spall, the movement of plant or otherwise),
 - (g) the procedures, methods or indicators to be used to give an indication whether or not required levels of incombustible content of roadway dust are being maintained,
 - (h) the procedures for, and frequency of, examination, sampling and testing of roadway dust to confirm whether or not required levels of incombustible content are being maintained,
 - (i) the procedures for the re-application of stone dust in parts of a mine (with particular reference to roadways containing conveyor belts),
 - (j) the procedures for the installation and maintenance of explosion barriers and other explosion suppression measures,
 - (k) the means (which must comply with Division 2 of Part 4) for determining and recording maximum likely concentrations of inflammable gas in parts of the mine,
 - (l) the making and retention of reports of examination, sampling and testing of roadway dust and the examination of explosion barriers,
 - (m) provisions for periodic audits (at intervals not exceeding one year) of the plan's operation, in relation to which:
 - (i) each auditor must be a licensed person, and
 - (ii) the operator must, in respect of each audit of the mine's explosion suppression system's operation, obtain from the auditor a report as to whether or not the system is being followed at the mine, and as to whether or not the intended aims of the system are being achieved, and
 - (iii) the operator must provide a copy of each report to the Chief Inspector and an industry check inspector as soon as practicable after the conduct of the audit, together with a report by the operator as to how any shortcomings revealed by the audit are to be rectified.

Note. Division 2 of Part 4 makes further provision for the control of coal dust explosions.

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37 Contents of major hazard management plan: explosives management plan

For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard comprising hazards arising from the handling of explosives must make provision for the following matters:

- (a) in the case of an underground mine:
 - (i) the testing of ignition circuit integrity and initiation of an explosion only by the use of electric shotfiring apparatus of a type Gazetted as suitable for use in the underground parts of the mine, and then only in a manner complying with any Gazetted conditions, and
 - (ii) restricting the use of explosives in underground parts of the mine to explosives that are of a type Gazetted for use in those parts,
- (b) in the case of the surface parts of a coal operation, a requirement that a person who designs or initiates a shot must ensure that fly rock does not present a risk to people (whether at the coal operation or not),
- (c) the use of explosives only by people who are licensed under the *Explosives Act 2003* to use explosives at the coal operations,
- (d) the keeping of a register identifying those people currently at, or providing a service to, the coal operation who are licensed under the *Explosives Act 2003* to handle explosives at the coal operation,
- (e) co-operation between the operator and any person licensed under the *Explosives Act 2003* to handle explosives, so as to ensure the safety of the storage, handling, transportation and use of explosives, including compliance with any conditions attached to the licence under the *Explosives Act 2003* of the person handling the explosive.

Note. A coal operation is subject to the requirements of the *Explosives Act 2003* and the regulations made under that Act.

38 Contents of major hazard management plan: airborne dust management plan

- (1) For the purposes of section 36 of the Act, a major hazard management plan in relation to a major hazard comprising hazards arising from airborne dust must make provision for the following matters:
 - (a) the measures to be taken to minimise the exposure of people at the coal operation to any airborne dust, including both operational and personal protective measures,

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- (b) the measures to be taken to prevent the exposure of people at the coal operation to airborne dust concentrations in excess of Gazetted limits,
 - (c) in particular, the use of water or other suitable agents or engineering methods generally to reduce airborne dust resulting from the mining, transport or handling of coal,
 - (d) the arrangements for the regular collection and analysis of samples, by a licensed person independent of the operation, of airborne dust from the breathing zone of people whose health may be affected by the dust, being arrangements that comply with Gazetted criteria,
 - (e) the procedures under which, if a concentration of airborne dust in a sample exceeds a Gazetted limit, the operator must within 7 days:
 - (i) inform any person from whose breathing zone the sample was taken, and
 - (ii) take action to ensure that the concentration of dust in circumstances similar to those in which the sample was taken is reduced, and
 - (iii) arrange for the collection and analysis, by a licensed person, of a further sample in circumstances similar to those in which the original sample was taken,
 - (f) the measures to be taken if the concentration of airborne dust in the further sample exceeds a Gazetted limit (which must include the operator informing the Chief Inspector and an industry check inspector),
 - (g) the right of a person from whose breathing zone a sample of airborne dust was collected and analysed to know the result of that analysis and to examine any record of samples concerning that person that is maintained by the operator,
 - (h) the keeping of records of all samples and the results of the analysis of those samples,
 - (i) the keeping of records of actions taken to reduce dust concentrations either resulting from a Gazetted limit being exceeded or in response to a direction of a government official under clause 39.
- (2) In this clause:
- breathing zone*** has the same meaning as in Australian Standard AS 2985—2004 *Workplace atmospheres—Method for sampling and gravimetric determination of respirable dust*.

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Clause 39 Coal Mine Health and Safety Regulation 2006

Part 2 Duties relating to health, welfare and safety at coal operations

Subdivision 3 Government official may require sampling

39 Government official may require sampling

- (1) A government official may direct an operator of a coal operation to arrange for a licensed person to collect samples of airborne dust and to analyse those samples.
- (2) The official may specify, in the direction, the arrangements, including the location, time and working conditions, for the taking of the samples.
- (3) The licensed person must report the results of the analyses of the samples to the operator as soon as practicable.

Note. Part 5 provides for the licensing of certain activities, including sampling and analysis of airborne dust.

Division 4 Duties relating to contractors

40 Content of contractor management plan

The following are prescribed as matters for which a contractor management plan for a coal operation must make provision under section 40 of the Act:

- (a) pre-assessment of contractor health and safety arrangements (including safety management, competence of people and fitness for purpose of plant) prior to engagement,
- (b) site induction of contractors, sub-contractors and their employees,
- (c) monitoring of contractor compliance with site health and safety requirements, including compliance with the Act and this Regulation.

41 Application of Part 5 of the Act to contractors

For the purposes of section 198 (1) (a) of the Act, the following classes of contractors are specified as contractors in relation to whom Subdivision 4 of Division 2 of Part 5 of the Act does not create any duties:

- (a) delivery contractors,
- (b) office equipment service contractors,
- (c) office cleaning contractors,
- (d) catering contractors,

- (e) other contractors who are not engaged in mining work, construction work or work in connection with mining work or construction work.

Note. The result of this specification is that no duties binding on an operator with respect to the specified contractors are created by Subdivision 4 of Division 2 of Part 5 of the Act. An operator may still have duties to these classes of contractors by virtue of their being non-employees at the operator's place of work under section 8 (2) of the *Occupational Health and Safety Act 2000*.

42 Application of Division 6 of Part 5 of the Act to contractors

For the purposes of section 198 (1) (b) of the Act, all contractors who are referred to in clause 41 are specified as contractors in relation to whom Division 6 of Part 5 of the Act does not apply.

Note. The result of this specification is that Division 6 (Duties of contractors) of Part 5 of the Act does not apply to the relevant class of contractors: see section 198 (1) (b) of the Act.

43 Contractor must prepare and implement OH&S management plan

For the purposes of section 75 (1) of the Act, the following classes of contractors are prescribed as contractors to whom section 75 of the Act applies:

- (a) contractors undertaking activities prescribed by clause 49 as high risk activities to which Subdivision 6 of Division 2 of Part 5 of the Act applies,
- (b) blast contractors at an open cut coal operation.

Note. Section 75 of the Act requires a contractor to whom the section applies to ensure that a site-specific occupational health and safety management plan is prepared for a coal operation before commencing work at the coal operation.

Division 5 Other matters

44 Contents of management structure

- (1) The management structure for a coal operation must include:
 - (a) the identity and contact details of the primary emergency contact for the coal operation, and
 - (b) the identity and contact details of an alternative emergency contact for the coal operation.
- (2) In relation to an underground mine, the management structure for the coal operation must include a sufficient number of people to exercise the functions of a mining supervisor for an underground mine, each being an employee of the operator who is competent to exercise those functions.

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- (3) The mining supervisors for an underground mine must include sufficient people to exercise functions as:
- (a) under managers, to supervise the entire underground mine on any shift where production or alterations to ventilation systems are taking place, except where:
 - (i) the only operations being carried out at the mine are on the surface, or
 - (ii) operations taking place at the mine do not involve:
 - (A) the employment of more than 15 people underground at any one time, or
 - (B) any alteration to the mine ventilation system or any alteration to the ventilation of a part of the mine (other than an alteration which it is usual to make during the working of a part of the mine), or
 - (iii) no more than 15 people are underground at any one time and, with the prior approval of the Chief Inspector, coal is being extracted by the longwall or shortwall method of mining or pillars are being removed, and
 - (b) deputies, to supervise employees.
- (4) In relation to an open cut mine, the management structure for the coal operation must include a sufficient number of people to exercise the functions of a mining supervisor for an open cut mine, each being an employee of the operator who is competent to exercise those functions.
- Note. *Employee*** is defined in section 3 of the Act to mean an individual who works under a contract of employment or apprenticeship.

45 Contents of emergency management system

For the purposes of section 47 (2) (h) of the Act, an emergency management system for a coal operation must adequately address the following matters in addition to those specified in section 47 of the Act:

- (a) fire and emergency provisions for both the surface part and the underground part of the coal operation, including the following:
 - (i) general emergency procedures,
 - (ii) provisions for the treatment and transport of sick or injured people,
 - (iii) the appointment and duties of fire officers,
 - (iv) the establishment and training of fire teams,
 - (v) the supply and maintenance of fire fighting equipment,
 - (vi) general workforce training in the use of fire fighting equipment,
 - (vii) the provision and supply of water storage and reticulation,

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- (viii) emergency fire procedures,
 - (ix) reporting and replacement of damaged fire equipment,
 - (x) compatibility of fire equipment with equipment of State fire brigades and adjacent mines,
- (b) fire and emergency provisions for the underground parts of the coal operation, including the following:
- (i) the actions and procedures to be taken by a person who discovers a fire at the mine,
 - (ii) the escape or evacuation of people from areas affected by emergencies,
 - (iii) the procedures to be adopted when emergency services external to the mine are required,
 - (iv) at least 2 means of egress from each production area or other part of the mine to the surface part of the mine so that, in the event of any roadway becoming impassable, another is always available,
 - (v) the effective communication to all people required to work or travel in the underground parts of the coal operation of the paths of egress from each underground part of the mine,
 - (vi) a means by which people who may need to use paths of egress are made familiar with them,
 - (vii) the marking of paths of egress so that people can safely travel on them in conditions of poor visibility,
 - (viii) sufficient transport or alternate means of escape, in combination with escape plant, to allow the safe evacuation of people,
 - (ix) the appointment of competent persons to be on duty on the surface part of the coal operation whenever anyone is in the underground parts of the coal operation, with effective means of communication to people in the underground parts of the coal operation,
 - (x) the rapid and effective sealing of the mine (while at the same time allowing for re-entry to the mine),
 - (xi) the keeping by the operator of an accurate record of the people underground at the coal operation at any time, and their likely location, and the making available of that record at any time,
- (c) in relation to both the surface parts of the coal operation and the underground parts of the coal operation—regular testing as to the effectiveness of the provisions,

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- (d) first aid arrangements, including the provision of appropriate facilities, competent people and procedures having regard to the nature of the work undertaken at the coal operation and the work environment (both on the surface part of the coal operation and in the underground parts of the coal operations),
- (e) arrangements for the treatment of electric shock and fluid injection injuries together with the effective training of people providing such treatment.

46 Information to be supplied on amendment of emergency management system

For the purposes of section 49 (3) of the Act, the information concerning an amended emergency management system for a coal operation is the information required by clause 45, to the extent that it is affected by the amendment. That information is required to be sent to the Chief Inspector and an industry check inspector.

47 Escape and rescue plan

- (1) An operator of a coal operation must cause a plan (an *escape and rescue plan*) of the underground parts of the operation to be prepared to aid in the escape and rescue of people underground.
- (2) Copies of the escape and rescue plan must be displayed in a prominent and secure position on the surface and at strategic places underground.
- (3) The operator must:
 - (a) cause copies of the plan to be updated at least once every 3 months, and
 - (b) so often as it becomes outdated, defaced or destroyed, cause it to be replaced.

48 Fire fighting plan

- (1) An operator of a coal operation must cause a plan (a *fire fighting plan*) of the underground parts of the coal operation showing the positions of the fire fighting equipment and installations, together with infrastructure for fire control and ventilation arrangements, to be prepared.
- (2) The operator must:
 - (a) cause copies of the plan to be updated at least once every 3 months, and
 - (b) so often as it becomes outdated, defaced or destroyed, cause it to be replaced.

49 High risk activities, waiting periods and information required

- (1) For the purposes of section 53 of the Act, each activity specified in the Table to this clause is prescribed as a high risk activity to which Subdivision 6 of Division 2 of Part 5 of the Act applies.
- (2) For the purposes of section 54 (1) (b) of the Act, the waiting period specified for each activity specified in the Table to this clause is prescribed as the waiting period that must elapse before that activity can commence.
- Note.** Section 54 (1A) of the Act provides for the Chief Inspector to vary the waiting period in relation to a particular high risk activity after consultation with the industry check inspector who has been notified of the activity.
- (3) For the purposes of section 54 (2) of the Act, a notice must be in a form that contains at least the following:
- the nature of the high risk activity (as described in the Table to this clause),
 - the intended commencement date for the high risk activity,
 - the information required by subclause (4).
- (4) For the purposes of section 54 (2) of the Act, the information required to accompany any notice under section 54 of the Act in relation to each activity specified in the Table to this clause is the information set out in that Table in relation to that activity.
- (5) That information may be provided:
- in paper form (in which case it must bear the signature of the operator or a person authorised by the operator), or
 - in electronic form (in which case the signed original must be retained at the coal operation for a period of at least 5 years after the completion of the high risk activity).

Table

High risk activity	Waiting period	Information
Single entry development, (being development of a roadway or a drift for more than 200 metres without the formation of an intersection)	1 month	<ol style="list-style-type: none"> 1 Identification of relevant major hazard management plans 2 A summary of risks identified and controls to be put in place 3 An engineering drawing, endorsed by the manager of mining engineering, of the work covered by the notice

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Part 2 Duties relating to health, welfare and safety at coal operations

High risk activity	Waiting period	Information
Sealing, otherwise than in an emergency, when an explosive atmosphere may result	1 month unless notice has been given as part of a notice for secondary extraction	<ol style="list-style-type: none">1 Location and purpose of seals2 Type of seals3 Method and sequence of sealing4 Expected time and duration for the presence of an explosive atmosphere5 Monitoring arrangements, triggers and resultant actions
Working within an inrush control zone	1 month where the potential source of inrush cannot be inspected, otherwise 1 week	<ol style="list-style-type: none">1 Identification of relevant major hazard management plans2 A summary of risks identified and controls to be put in place3 An engineering drawing, endorsed by the manager of mining engineering, of the work covered by the notice
Injection or application of polymeric material for ventilation or strata	24 hours	Nature of material and purpose for injection or application
Cutting or welding in a hazardous zone underground	First occasion, 1 month Each subsequent occasion, 7 days	<ol style="list-style-type: none">1 Purpose of cutting or welding2 Summary of cutting and welding management plan (that is, of safe work procedures to be used in cutting or welding)

High risk activity	Waiting period	Information
High wall mining (mining by entry into a previously formed high wall and during which no people are underground)	1 month	<ol style="list-style-type: none"> 1 Identification of relevant major hazard management plans 2 A summary of risks identified and controls to be put in place 3 An engineering drawing, endorsed by the manager of mining engineering, of the work covered by the notice 4 Evidence of consultation with the workforce
Shotfiring underground, where shotfiring has not been undertaken within a year prior to the intended time of shotfiring	1 day	Location of shotfiring
Driving an underground roadway with a width greater than 55 metres	7 days	Information as to how dealt with under the strata failure management plan
Widening an existing underground roadway	7 days	Information as to how dealt with under the strata failure management plan
Shaft or drift sinking, raise boring or development of a new underground mine entry	3 months	<p>Method and plant to be used</p> <p>A summary of risks identified and controls to be put in place</p>
Installation of a booster fan underground	3 months	<ol style="list-style-type: none"> 1 Plant location 2 Ventilation plan, a summary of risks identified and controls to be put in place

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Clause 50 Coal Mine Health and Safety Regulation 2006

Part 2 Duties relating to health, welfare and safety at coal operations

High risk activity	Waiting period	Information
The introduction for the first time of a vehicle with a non-flameproof (fire protected) diesel engine to an underground part of a coal operation that is not a hazardous zone	3 months	How the risk of introduction has been assessed and the resulting controls put in place, together with procedures to be followed in the case of failure of a control

50 Information concerning high risk activities

The Chief Inspector may request a person who has given notice of a high risk activity under section 54 of the Act to provide to the Chief Inspector, before the end of the waiting period for that activity, such information as is specified in the request.

Division 6 Chief Inspectors' powers where coal operation is dangerous

51 Chief Inspector may impose prohibitions or restrictions or direct evacuation or closure of coal operation

- (1) This clause applies if the Chief Inspector is of the opinion that a coal operation or any part of a coal operation or any matter, thing or practice at a coal operation or connected with the control or management of a coal operation is, or is liable shortly to become, dangerous to the safety or health of any persons employed at the coal operation.
- (2) If this clause applies, the Chief Inspector may serve on the operator of the coal operation a notice:
 - (a) stating that the Chief Inspector is of that opinion, and
 - (b) giving particulars of the Chief Inspector's reasons for being of that opinion.
- (3) The Chief Inspector may, by way of that notice:
 - (a) impose upon that operator such prohibitions and restrictions, and require that operator to carry out such works or do such things:
 - (i) as appear to the Chief Inspector to be necessary for the purpose of safeguarding the safety or health of the persons employed at the coal operation, and
 - (ii) as are set out in the notice, or

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- (b) direct that operator to cause the coal operation or any part of the coal operation:
 - (i) to be evacuated immediately, or
 - (ii) to be closed, either indefinitely or for such period as is specified by the Chief Inspector,or give a direction under both subparagraphs (i) and (ii), or
 - (c) both impose prohibitions and restrictions under paragraph (a) and give a direction under paragraph (b).
- (4) A prohibition, restriction or requirement imposed, or a direction given, by way of a notice served under this clause may:
 - (a) be subject to such exemptions as are set out in the notice, and
 - (b) operate either indefinitely or for such period as is set out in the notice.
 - (5) The Chief Inspector may, in any notice served under this clause, require the notice to be complied with immediately or within a period specified in the notice.
 - (6) If a notice under this clause cannot be readily served on the operator of a coal operation and the circumstances necessitate that the action required by the notice be taken immediately, it may be served on the next senior official at the coal operation.
 - (7) If a notice is served by the Chief Inspector on the next senior official at a coal operation in accordance with subclause (6), the Chief Inspector must, as soon as practicable, serve on the operator of the coal operation a signed copy of the notice.
 - (8) Any notice served under subclause (2) or (6) remains in force until it is varied or revoked by the Chief Inspector pursuant to clause 52 (2), unless it sooner expires.

52 Objections to notice

- (1) If a person served with a notice under clause 51 objects to complying with any prohibition, restriction, requirement or direction set out in the notice, the person may state the grounds of the person's objections in writing and submit them to the Chief Inspector.
- (2) The Chief Inspector must, within 21 days of the receipt of an objection submitted to the Chief Inspector under subclause (1), confirm, vary or revoke the notice in respect of which the objection was submitted.
- (3) If a notice is varied under subclause (2), the notice has force as varied.

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Clause 53 Coal Mine Health and Safety Regulation 2006

Part 2 Duties relating to health, welfare and safety at coal operations

53 Notice to be complied with even if objection or appeal

- (1) Subject to subclause (2), a notice served under clause 51 must, while it remains in force, be complied with even if an objection to the Chief Inspector has been made pursuant to clause 52.
- (2) If a decision is made by the Chief Inspector in respect of a notice served under clause 51 (not being a decision to revoke the notice), the notice as affected by that decision must be complied with.

54 Offence

A person must not fail to comply with a prohibition, restriction or requirement imposed on the person, or with a direction given to the person, under this Division.

Part 3 Notifications

Division 1 Notification of certain incidents

55 Notification of certain incidents at or in relation to coal operations: section 110 (1) (b) of the Act

The following incidents are prescribed for the purposes of section 110 (1) (b) of the Act:

- (a) an injury to a person that results (at any time after the injury) in any of the following:
 - (i) the amputation of one or more fingers or toes or any other part of a hand or foot,
 - (ii) any fracture other than a fracture of a finger, toe, hand or foot,
 - (iii) loss of sight of an eye,
 - (iv) an internal haemorrhage receiving hospital treatment,
 - (v) the injection of fluid (including hydraulic fluid, oil, air or water) under pressure,
 - (vi) asphyxia,
 - (vii) the loss of consciousness of the person caused by impact of physical force, exposure to hazardous substances, electric shock or lack of oxygen,
- (b) an event that results (at any time after the event) in the admission of a person to hospital as an in-patient,
- (c) any of the following events or circumstances that present an immediate threat to life or of permanent incapacitating injury:
 - (i) damage to any plant, building or structure,
 - (ii) imminent risk of explosion or fire,
 - (iii) entrapment of a person,
 - (iv) failure of strata, or of slope stability control measures,
 - (v) serious burns to a person,
 - (vi) the unintended activation or movement of vehicles or machinery,
- (d) any incident involving electricity:
 - (i) as a consequence of which a person suffers injury, receives treatment from a health care professional or is unable (on medical advice) to attend work for any period of time, or
 - (ii) where a vehicle, machinery or other plant makes contact with an energised high voltage source involving a risk to any person,

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Clause 56 Coal Mine Health and Safety Regulation 2006

Part 3 Notifications

- (e) an uncontrolled explosion or fire or a misfire of explosives in the underground parts of a coal operation,
- (f) an uncontrolled outburst of gas,
- (g) an abnormal inrush of fluid,
- (h) a collision on the surface part of the coal operation involving a vehicle or mobile plant with a gross weight of more than 2 tonnes,
- (i) the loss of control of a heavy vehicle or other large plant on the surface part of the coal operation,
- (j) the overturning of a heavy vehicle or other large plant on the surface part of the coal operation,
- (k) ejection of fly rock so that it falls outside a blast exclusion zone (that is an area from which people are excluded during blasting) or near people,
- (l) failure of any part of a powered winding system or damage to a shaft or shaft equipment.

56 Notification of certain incidents at or in relation to coal operations: section 110 (1) (c) of the Act

- (1) The following are declared to be incidents or matters that are required to be notified for the purposes of section 110 (1) (c) of the Act:
 - (a) an injury to a person that results in the person being unfit, for a continuous period of at least 7 days, to attend the person's usual place of work, to perform his or her usual duties at his or her place of work or, in the case of a non-employee, to carry out his or her usual work activities (where that unfitness is supported by a medical certificate),
 - (b) an illness of a person that is related to work processes and results in the person being unfit, for a continuous period of at least 7 days, to attend the person's usual place of work or to perform his or her usual duties at that place of work (where that unfitness is supported by a medical certificate),
 - (c) any incidence of violence at a place of work that results in an employee being unfit, for a continuous period of at least 7 days, to attend the employee's usual place of work or to perform his or her usual duties at that place of work (where that unfitness is supported by a medical certificate),
 - (d) a spill or incident resulting in exposure or potential exposure of a person to a notifiable carcinogenic substance or a prohibited carcinogenic substance,
 - (e) contact of a person with an energised electrical item that is supplied at above extra low voltage,

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- (f) initial self-heating of coal or other material, or any heating of coal in the underground parts of a coal operation that results in withdrawal of people,
 - (g) an accumulation of gas that requires the withdrawal of people or results in the tripping off of electric power,
 - (h) an unplanned fall of a roof or sides that impedes passage or disrupts mine ventilation or extends outside the bolted zone,
 - (i) a windblast that results in injuries requiring treatment by a medical practitioner,
 - (j) the burial of machinery such that it cannot be recovered under its own tractive effort,
 - (k) a creep or progressive pillar collapse,
 - (l) an event that occurs in a hazardous zone in the underground parts of the coal operation and from which an electric arc is observed or that leaves visible evidence on an electric cable of arcing having occurred,
 - (m) the in-service failure of the explosion-protection characteristics of explosion-protected plant,
 - (n) an uncontrolled explosion or fire or a misfire of explosives in the surface parts of a coal operation,
 - (o) an escape of fluid under pressure that could place any person at risk,
 - (p) an unintended activation or movement of vehicles or machinery that does not present an immediate threat to life or of permanent incapacitating injury,
 - (q) a sudden pillar collapse.
- (2) For the purposes of section 110 (5) of the Act, the time in which notice of an incident referred to in subclause (1) (d), (e), (f), (g), (h), (i), (j), (k), (n), (o) or (q) must be given is as soon as practicable, and in any case within 24 hours, after the operator becomes aware of the notifiable incident.
- (3) In this clause:
- bolted zone*** means the area around an underground roadway that has been penetrated by roof, rib or cable bolts.
- notifiable carcinogenic substance*** has the same meaning as in the regulations under the *Occupational Health and Safety Act 2000*.
- prohibited carcinogenic substance*** has the same meaning as in the regulations under the *Occupational Health and Safety Act 2000*.

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Clause 57 Coal Mine Health and Safety Regulation 2006

Part 3 Notifications

57 Notification of certain incidents at coal exploration sites: section 110 (2) (b) of the Act

The following incidents are prescribed for the purposes of section 110 (2) (b) of the Act:

- (a) an injury to a person that results (at any time after the injury) in any of the following:
 - (i) the amputation of one or more fingers or toes or any other part of a hand or foot,
 - (ii) any fracture other than a fracture of a finger, toe, hand or foot,
 - (iii) loss of sight of an eye,
 - (iv) an internal haemorrhage receiving hospital treatment,
 - (v) the injection of fluid (including hydraulic fluid, oil, air or water) under pressure,
 - (vi) asphyxia,
 - (vii) the loss of consciousness of the person caused by impact of physical force, exposure to hazardous substances, electric shock or lack of oxygen,
- (b) an event that results (at any time after the event) in the admission of a person to hospital as an in-patient,
- (c) the unintended activation or movement of machinery (other than a vehicle).

58 Form of notice

For the purposes of section 110 (3) of the Act, a notice under section 110 of the Act must be in a form that includes the following:

- (a) a statement that it is made under section 110 of the Act,
- (b) the name and locality of the coal operation,
- (c) details of the identity of the operator of the coal operation,
- (d) the date of the incident,
- (e) the time of the incident,
- (f) a detailed description of the nature of the incident,
- (g) a reference to the provision of clause 55 or 56 that prescribes the incident or declares it to be an incident required to be notified,
- (h) details of any injuries resulting from the incident, including the nature of the injury (for example, a fracture or dislocation), the part of the body injured and the resulting treatment,
- (i) the signature of the operator or a person authorised to sign on behalf of the operator.

59 Ancillary reports

- (1) This clause applies if:
 - (a) an incident that is required to be notified under section 110 of the Act occurs at a coal operation, and
 - (b) the incident is of a class in relation to which an ancillary form has been Gazetted as being required in addition to a form of notice.
- (2) For the purposes of section 56 of the Act, the operator of the coal operation must make a report of any such incident in a Gazetted form.

60 Period of non-disturbance may be shortened

- (1) The Chief Inspector may, after consulting with an industry check inspector, notify the operator of a coal operation that the scene of the incident may be released less than 24 hours after the notification of the relevant incident.
- (2) Any period of less than 24 hours commencing on notification of the relevant incident and ending at the time when the operator receives such notification from the Chief Inspector is prescribed as the period referred to in section 111 (5) of the Act.

Note. Section 111 of the Act requires a 24 hour period of non-disturbance of plant involved in notifiable incidents (and of the surrounding area). That period may be changed by the regulations. This clause provides for a non-disturbance period of less than 24 hours, if approved by the Chief Inspector.

Division 2 Inquiries**61 Terms of reference of Boards of Inquiry**

As soon as practicable after constituting a Board of Inquiry under section 113 of the Act, the Minister is to cause to be made publicly available a statement:

- (a) that a Board of Inquiry has been constituted in relation to an event, occurrence, practice or matter specified in the statement, and
- (b) that the Minister has required the Board of Inquiry to report within a period specified in the statement.

62 Prospective appointees to Boards of Inquiry

- (1) The Minister is not to constitute a person as a Board of Inquiry under section 113 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

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Part 3 Notifications

- (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 subclause (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) any financial, professional or personal interests (whether past, present or future) that the person has 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.

Division 3 Notifications to Chief Inspector

63 Duty to give notice of drilling operations

A notice of drilling operations given under section 78 of the Act must contain the following:

- (a) details of the authority (title) that allows the drilling,
- (b) details of the entity that will conduct the drilling,
- (c) details (including contact details) of the person to be in charge at the drill site,
- (d) details of the location of drill holes (easting, northing from 1:25000 series topographic map),
- (e) details of any precautions to be put in place (for example, blowout protection).

64 Other duties to give notice

- (1) The operator of a coal operation must give notice under section 79 of the Act to the Chief Inspector of the following:
 - (a) the commencement of, re-commencement of, significant interruption to, or suspension of, mining,
 - (b) any discontinuance of all work at the coal operation (where mining is suspended but the operation is kept on a care and maintenance basis),
 - (c) any abandonment of the coal operation (where the mining title is relinquished),
 - (d) the discovery of methane for the first time in the underground parts of the coal operation,
 - (e) the first indication that the underground parts of a coal operation are subject to windblast, outbursts or spontaneous combustion,

- (f) the commencement of a bulk sampling operation (including site preparation).
- (2) A notice under this clause must be in writing and must be made as soon as practicable after an operator becomes aware of the matter to be notified.

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Part 4 Safety at coal operations

Part 4 Safety at coal operations

Division 1 Controlled materials, plant and practices

Subdivision 1 Controlled materials, plant and practices

Note. Section 20 (2) of the *Occupational Health and Safety Act 2000* provides that, while at work, an employee must co-operate with his or her employer or other people so far as is necessary to enable compliance with that Act or the regulations under that Act that is imposed in the interests of health, safety and welfare on the employer or any other person.

65 Smoking materials not to be taken underground or into designated areas

- (1) The operator of a coal operation must ensure that no person takes any smoking materials or any match or mechanical lighter into, or has any smoking materials or any match or mechanical lighter in the person's possession in:
 - (a) an underground part of the coal operation, or
 - (b) any area on the surface part of the coal operation designated for the purposes of this clause by the operator of the coal operation by appropriate plans, signage, displays, notices or other means.

- (2) In this clause:

mechanical lighter means a mechanical, chemical or electrical contrivance designed or adapted primarily for the purpose of igniting smoking materials.

smoking materials includes any tobacco or other substance capable of being used for smoking, any pipe, cigarette or cigar and any other contrivance designed or adapted for smoking tobacco or any other substance.

66 Aluminium or light metal alloys

- (1) The operator of an underground mine must develop and implement arrangements for the control of the use of aluminium and aluminium articles in the underground parts of the mine.
- (2) The operator's arrangements must ensure the following:
 - (a) that the use of aluminium is limited to those applications that may be justified on the grounds of safety and health,
 - (b) that, wherever practicable, aluminium articles are not left unattended in the underground parts of the mine,
 - (c) that aluminium articles are not taken or do not remain anywhere on the inbye side of:
 - (i) the first cutthrough outbye a longwall face or the last line of open cutthroughs in a panel, or

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- (ii) a distance of 100 metres outbye a longwall face or last line of open cutthroughs in a panel, whichever is the larger area,
- (d) that aluminium articles are not taken into, or do not remain, in an atmosphere containing more than 1.25 per cent of methane,
- (e) that aluminium articles are not used in any impact process or other application where an incendiary spark is likely to occur,
- (f) that aluminium articles that are not in use, or intended for use, are removed from the underground parts of the mine,
- (g) that, as far as practicable, any aluminium article to be taken into the underground parts of the mine is clearly and durably marked to the effect that it is aluminium (or a light metal alloy) and its use underground is subject to restrictions,
- (h) that a register is maintained at the mine recording all aluminium articles taken into the underground parts of the mine and the application to which they will be put and their return to the surface of the mine.
- (3) The operator of an underground mine must ensure that external moving parts of plant, ventilation appliances (including ventilation fans), components of exploders, food and other wrappings or drink cans or similar aluminium articles are not taken into the underground parts of the mine.
- (4) In this clause:
- aluminium** includes light metal alloys of aluminium, magnesium and titanium in which the total content of these three metals exceeds 15 per cent by weight or in which the content of magnesium and titanium together exceeds 6 per cent by weight.
- aluminium article** includes any item, structure or plant made of or containing aluminium in which the aluminium is exposed such as to allow the potential for an incensive spark to occur.

67 Inflammable materials

- (1) The operator of an underground mine must ensure that inflammable material with a flash point of 23° Celsius or less is not stored in the underground parts of the mine except in a fireproof room, compartment or box.
- (2) The operator of an underground mine must ensure that any building or structure on the top of a shaft or outlet at the mine is not made of, or does not comprise, inflammable material with a flash point of 61° Celsius or less.

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Part 4 Safety at coal operations

(3) In this clause:

flash point, in relation to any material, means the lowest temperature at which the material, when tested in a Gazetted manner, releases a vapour at a rate sufficient to produce an explosive mixture with the air that is in immediate contact with the material.

68 Combustible liquid storage

(1) If grease, or lubricating or hydraulic oil or fluid, that is a combustible liquid is stored or held in the underground parts of an underground mine in a container having a capacity of more than 60 litres, the operator of the mine must ensure:

- (a) that adequate provision is made to minimise spillage, and
- (b) that adequate provision is made for the collection of spilled oil in trenches, trays or pits filled with dry sand or some other non-inflammable, absorbent material, and
- (c) that spillage is removed as frequently as is necessary to keep the area in which the oil is stored or held free from spillage, and in any case not less often than once every 7 days, and
- (d) that fixed machinery, blowlamps, electric or oxy-acetylene welding or cutting apparatus, flame torches or portable electric tools are not operated within 10 metres of the grease or lubricating or hydraulic oil or fluid, and
- (e) that a fire extinguisher of an appropriate type and capacity to deal with an oil fire is provided nearby so as to be readily accessible.

(2) In this clause:

combustible liquid means a combustible liquid within the meaning of Australian Standard AS 1940—2004 *The storage and handling of flammable and combustible liquids*.

69 Prohibition on use of certain fuelled plant in underground mines

The operator of an underground mine must ensure that plant used in the underground parts of the mine is fuelled only by a Gazetted type of fuel.

70 FRAS materials

The operator of an underground mine must ensure that ventilation appliances and conveyor belt and accessories in the underground parts of the mine (including reclaim tunnels) are flame resistant and anti-static (FRAS) as Gazetted.

71 Lasers

The operator of a coal operation must ensure that any laser used at the coal operation is used in accordance with any relevant Australian Standards and, in particular, in accordance with Australian Standard AS 2397—1993 *Safe use of lasers in the building and construction industry*.

72 Overhead power lines and cables

The operator of a coal operation must ensure that a safe distance is maintained between plant and any overhead power line or cable at a coal operation.

73 Diesel fuel

- (1) The operator of a coal operation must ensure that diesel fuel used at the coal operation:
 - (a) conforms to Gazetted requirements, and
 - (b) is taken into the underground parts of the coal operation only in a safe container, and
 - (c) is not kept in the underground parts of the coal operation at the mine unless it is:
 - (i) in a fuel tank of transport, or
 - (ii) in a safe container.
- (2) The operator of an underground mine must ensure that the total quantity of fuel in the underground parts of the mine at any one time is minimised, but in any case does not exceed the likely total fuel consumption of transport at the mine (with normal operation) over the ensuing 7 days.

74 Diesel engines

The operator of an underground mine must ensure that:

- (a) diesel engines used in the underground parts of the mine meet Gazetted limits on the content of their exhaust, and
- (b) exhaust from each diesel engine used in the underground parts of the mine is regularly sampled and analysed by a licensed person in a manner and frequency that may be Gazetted.

75 Diesel particulate matter

The operator of a coal operation must, as far as practicable, minimise the exposure of people at the coal operation to diesel particulate matter produced by diesel engines in use at the coal operation.

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Clause 76 Coal Mine Health and Safety Regulation 2006

Part 4 Safety at coal operations

76 Plant requirements

- (1) The Director-General may, by notice published in the Gazette, specify requirements (such as design, certification, performance, assessment or installation requirements) that must be met prior to any of the following plant being used at a coal operation:
 - (a) mobile plant that has the capacity to transport one or more people (other than plant that is registrable under the *Road Transport (Vehicle Registration) Act 1997*),
 - (b) remotely controlled plant to which Australian Standard AS/NZS 4240:1994 *Remote controls for mining equipment* applies,
 - (c) fixed gas monitoring plant.
- (2) The operator of a coal operation must ensure that those requirements are met.

Subdivision 2 Belt conveyors on surface of coal operation

77 Assessment of risk of fire on belt conveyor

The operator of a coal operation must assess the risk of fire on any belt conveyor in a reclaim tunnel or other enclosed space on the surface of the coal operation.

78 Detection and control of fire on belt conveyor

The operator of a coal operation must ensure that any fire on any belt conveyor in a reclaim tunnel or other enclosed space on the surface of the coal operation is detected as soon as possible and is effectively brought under control as soon as possible.

Subdivision 3 Belt conveyors in underground mines

79 Application of Subdivision

The provisions of this Subdivision apply to and in respect of belt conveyors used in underground mines.

80 Use of conveyors in dusty places

- (1) A belt conveyor must not be used at an underground mine unless the requirements of Subdivision 1 of Division 2 have been complied with.
- (2) However, and despite clause 91, the operator of the mine must ensure that the incombustible content of that portion of roadway dust that is finer than 250 micrometres at the belt conveyor is maintained at the

level of not less than 70 per cent by mass through the application of stone dust.

81 Installation and operation of belt conveyors

- (1) In an underground roadway in which a belt conveyor is used, the operator of the mine must ensure:
 - (a) that the belt conveyor is installed and maintained so as to prevent contact between the belt and any stationary items or materials (excluding those specifically allowed for in the design of the conveyor), and
 - (b) that the roof is of sufficient height to allow the contour of the maximum load and the largest fragments carried by the conveyor to clear the roof and roof supports, and
 - (c) that the roadway is of sufficient width to provide a suitable passageway on at least one side of the conveyor to facilitate inspection and maintenance, and
 - (d) that sufficient clearance is provided on each side of the conveyor to allow any spillage of coal to fall clear of the conveyor, and
 - (e) that a minimum clearance of 300 millimetres from the floor to the underside of the return belt is provided (except at the most inbye loading point of the conveyor system if the mine manager establishes that such clearance is impracticable).
- (2) A belt conveyor used in an underground roadway must not be operated if any belt fabric material is in contact with the shaft of any idler or pulley.
- (3) The operator of an underground mine must ensure that conveyor belting and conveyor system components used underground at the mine are flame resistant and anti-static.

82 Cleaning of underground roadways

The operator of an underground mine must ensure that all underground roadways in which belt conveyors are installed are cleaned and kept free from spillage, loose coal and rubbish.

Subdivision 4 Controlled practices

83 Isolation arrangements

The operator of a coal operation must develop and implement arrangements at the coal operation to ensure that:

- (a) potentially damaging supplied energy is isolated from electrical or mechanical plant on which people are to perform work, and

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Part 4 Safety at coal operations

- (b) potentially damaging stored energy is dissipated or isolated before work commences.

84 Working alone in the underground parts of an underground mine

- (1) The operator of an underground mine must ensure that no person works alone in the underground parts of the mine unless the person is assessed as competent by the operator to do so and the person agrees to undertake that form of work.
- (2) The operator of a coal operation must ensure that no person works alone in the underground parts of the coal operation unless a system for periodic checking of the welfare of people working alone is developed and implemented.

85 Working accompanied at a face in the underground parts of an underground mine

The operator of an underground mine must ensure that no person works in the underground parts of the mine:

- (a) in or about a face area for the purpose of cutting coal, or
- (b) anywhere for the purpose of the erection or removal of roof or side supports,

unless the person is competent to do so or is in the company of people who are competent to do so.

86 Conveyor riding

The operator of a coal operation must ensure that no person rides on a conveyor belt at the operation.

87 Construction zones

- (1) If building construction or demolition is being undertaken at a coal operation, the operator of the coal operation must designate a construction zone, being an area that includes all the places where the construction or demolition is being carried out.
- (2) If an inspector is of the opinion that a construction zone should be, but has not been, designated, or has been incorrectly designated, then the inspector may, by written notice, direct the operator to designate, within the time specified in the notice, a construction zone that complies with the notice.
- (3) For the purposes of this clause, a construction zone must be designated:
 - (a) by description or by marking the extent of the construction zone clearly on a plan, and

(b) by means of appropriate signage and other markings or fencing.

Note. A designated construction zone is subject to the relevant provisions of the regulations made under the *Occupational Health and Safety Act 2000*.

Subdivision 5 Bord and pillar systems

88 Bord and pillar system to be used in underground mines

- (1) A method of mining other than the bord and pillar system must not be used in an underground mine except with the approval of the Minister given on the recommendation of the Chief Inspector and subject to such conditions as the Minister may impose.
- (2) If the bord and pillar system of mining is used:
 - (a) the dimension in plan of a pillar must not be less than:
 - (i) a distance that is equal to one-tenth of the thickness of the cover (to the surface), or
 - (ii) 10 metres,whichever is the greater, and
 - (b) the width of the roadways, bords, cut-throughs, headings and pillar splits must not exceed 5.5 metres except for that part of a roadway forming an intersection with another roadway, and
 - (c) the Chief Inspector may approve or direct a variation in the dimensions of pillars, and
 - (d) the Chief Inspector may approve or direct a variation in the width of the roadways, bords, cut-throughs, headings or pillar splits, and
 - (e) pillars must not be removed except with the approval in writing of the Minister and subject to such conditions as the Minister may impose.
- (3) For the purposes of this section, a pillar is taken to have been removed if its dimensions are reduced to less than:
 - (a) the dimensions required by subclause (2) (a) and (b), or
 - (b) such other dimensions as the Chief Inspector has approved or directed pursuant to subsection (2) (c).
- (4) The power conferred by this clause on the Minister to grant an approval includes a power, exercisable in the like manner and subject to the like conditions, if any, as the power so conferred, to vary or revoke the approval.

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- (5) An approval granted by the Minister under this clause may:
 - (a) be without limit as to its period of operation, or
 - (b) be limited so as to expire on a specified date unless renewed, and may be absolute or conditional.
- (6) This clause expires at the beginning of 1 July 2008.

Subdivision 6 Records and reporting

89 Records of plant

- (1) The operator of a coal operation must maintain at the coal operation records of any of the following plant used at the coal operation:
 - (a) mobile plant that has the capacity to transport one or more people (other than plant that is registrable under the *Road Transport (Vehicle Registration) Act 1997*),
 - (b) remotely controlled plant to which Australian Standard AS/NZS 4240:1994 *Remote controls for mining equipment* applies,
 - (c) fixed gas monitoring plant.
- (2) A contractor who carries out work at a coal operation must maintain records of any plant of the kind referred to in subclause (1) that is used by the contractor or its employees at the coal operation.
- (3) Such records must contain the Gazetted particulars and be kept in the Gazetted form.
- (4) Such records must be retained for at least 5 years.
- (5) Despite subclauses (1) and (2), this clause does not require records to be maintained in relation to plant that is at a coal operation for less than one week.

Note. Part 5.2 of the *Occupational Health and Safety Regulation 2001* regulates the design, manufacture and registration of plant. Part 5.4 prohibits the use of certain items of plant unless they have a current design registration number or a current item registration number.

90 Offence relating to reporting of health or safety matters

The operator of a coal operation must not provide, directly or indirectly, any financial benefit or financial incentive to a person for the purpose of discouraging that person from reporting a health or safety matter to the person's supervisor, a site check inspector, an authorised representative, a government official or the Department.

Division 2 Coal dust**Subdivision 1 Coal dust explosion prevention and suppression****91 Maintenance of incombustible content of roadway dust**

- (1) The operator of an underground mine must ensure that the incombustible content of that portion of roadway dust that is finer than 250 micrometres is maintained at the following levels through the application of stone dust:
 - (a) in the case of dust in an intake roadway within a face zone—not less than 80 per cent by mass,
 - (b) in the case of dust in a return roadway within a face zone—not less than 85 per cent by mass,
 - (c) in the case of dust elsewhere in a mine—not less than 70 per cent by mass.
- (2) Subclause (1) does not apply to roadway dust that is so wet as to be incapable of being forced into suspension in the air by the concussion of a gas explosion or otherwise.
- (3) The distance advanced between applications of stone dust at each working face must be kept to not more than 30 metres but in no case is a working place to remain without an application of stone dust for a period in excess of one working day.

92 Reduction of levels of incombustible content of roadway dust in certain circumstances

- (1) The operator of an underground mine, in consultation with the manager of mining engineering, may determine the maximum likely concentration of inflammable gas (*maximum likely gas concentration*) in intake roadways within face zones and in return roadways within working panels in the mine.
- (2) In the case of an intake roadway within a face zone, the operator's determination must be based on readings obtained from:
 - (a) an automatic methane monitor or a recording methane detector installed on a continuous miner operating in the zone, or
 - (b) an automatic methane monitor or a recording methane detector installed on the return side of a longwall working in the zone.
- (3) In the case of a return roadway within a working panel, the operator's determination must be based on readings obtained from a gas monitoring system required by this Regulation.

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Clause 93 Coal Mine Health and Safety Regulation 2006

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- (4) The operator must record any determinations of maximum likely gas concentrations and notify the district inspector immediately in writing of the determinations and the parts of the mine to which they apply.
- (5) If an operator determines the maximum likely gas concentration for a part of the mine, the minimum incombustible content level that is required by clause 91 (1) (a) or (b) to be maintained in relation to roadway dust in that part is reduced by:
 - (a) in the case of dust in an intake roadway within a face zone—1 per cent for each 0.1 per cent that the maximum likely gas concentration is below 1 per cent, and
 - (b) in the case of dust in a return roadway within a working panel—1 per cent for each 0.2 per cent that the maximum likely gas concentration is below 2 per cent.
- (6) In this clause:
working panel includes all roadways, both intake and return, ventilated by a separate ventilation split that provides ventilation to a working face within a panel.

93 Review of operator's determinations of maximum likely gas concentrations

- (1) An inspector who is of the opinion that a concentration of inflammable gas present in a part of an underground mine has been, is or is likely to be, greater than a maximum likely gas concentration currently determined by the operator for that part must immediately serve on the operator a notice requiring the application of stone dust to that part as though the determination had not been made.
- (2) An inspector may require an operator to arrange for the conduct of measurements of inflammable gas concentrations in a manner and at a frequency required by the inspector for the purpose of testing the operator's determination of a maximum likely gas concentration.
- (3) The operator of an underground mine may apply to the Chief Inspector for a review of a requirement under subclause (1) or (2) (other than a requirement made by the Chief Inspector) and the Chief Inspector may revoke, confirm or amend the requirement.
- (4) The operator must comply with a requirement under subclause (1) or (2) unless it is revoked or amended. If a requirement is amended it must be complied with as amended.

94 Restrictions on use of stone dust

The operator of an underground mine must ensure that stone dust is not used for the treatment of roadway dust unless it is of a Gazetted type or grade for the purpose for which it is used.

95 Explosion barriers and other explosion suppression measures in roadways

- (1) The operator of an underground mine must ensure that:
 - (a) an explosion barrier is installed and maintained in the part of any roadway (other than part of a single entry roadway) containing a conveyor belt within a face zone, and
 - (b) an explosion barrier is installed and maintained in the part of any return roadway (other than part of a single entry roadway or a part of a roadway referred to in paragraph (a)) within a face zone, and
 - (c) adequate explosion suppression measures are installed and maintained in single entry roadways.
- (2) For the purposes of this clause, an explosion barrier is taken to have been installed in a part of a roadway if the most inbye part of the barrier is in the part of the roadway.

Subdivision 2 Sampling and testing of roadway dust**96 Appointment of explosion suppression officers**

The Chief Inspector may appoint officers of the Department as explosion suppression officers. The officers appointed must be competent to exercise the functions of a mining supervisor for an underground mine.

97 Functions of explosion suppression officers

An explosion suppression officer has the following functions:

- (a) after notifying a senior person employed by the operator and present at an underground mine—to enter the mine at any reasonable time for the purpose of determining roadway dust conditions,
- (b) to collect, remove and test, or arrange for the testing of, samples of roadway dust from mines,
- (c) to require the production of, and to inspect and to copy from, any records or reports required to be kept under this Division,
- (d) to make inquiry and examination in order to ascertain whether the provisions of this Division are being complied with,
- (e) to require the operator to provide such assistance and facilities with respect to any matter or thing to which the responsibilities of the operator extend as are necessary to enable the explosion suppression officer to exercise any power conferred by this clause.

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Clause 98 Coal Mine Health and Safety Regulation 2006

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98 Appointment of further people to collect roadway dust samples

- (1) The operator of an underground mine must appoint one or more people in writing to collect roadway dust samples at the mine.
- (2) A person appointed must, before the appointment, have undergone a period of instruction and satisfied the operator as to the person's ability to perform the duties of the position.

99 Person to accompany explosion suppression officer on visits to underground mine

A person appointed by an operator of an underground mine to collect roadway dust samples, or, in that person's absence, a person nominated by the operator, must, at the request of an explosion suppression officer, accompany the officer during visits to the mine.

100 Method of taking roadway dust samples

- (1) If roadway dust is to be sampled for the purpose of ascertaining its incombustible content for the purposes of this Division:
 - (a) subject to paragraph (b), samples must be taken:
 - (i) where practicable, from the complete perimeter of the roadway and the structures in it, and
 - (ii) where possible, over a length of roadway of at least 45 metres,
by a method of strip sampling by which the dust is collected from a succession of transverse strips as nearly as possible of equal width and equally spaced, not more than 5 metres apart and of an aggregate area not less than 1 per cent of the total area sampled, and
 - (b) if it appears that dust on the floor of a roadway contains a different incombustible content from dust on the roof and sides of the roadway, the dust on the floor must be sampled and tested separately from the dust on the roof and sides, and
 - (c) each sample must be collected as near as practicable from a maximum depth of 5 millimetres.
- (2) If a location is re-sampled, the individual strips from which the increments for a strip sample are taken must not coincide with those from which a previous sample has been taken.

101 Testing roadway dust samples

- (1) Roadway dust samples may be tested only by a licensed person.

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- (2) In preparing roadway dust samples and determining their incombustible content, regard must be had to any coal mining industry code of practice that is applicable to the underground mine.
 - (3) In the event of a dispute concerning the incombustible content of samples of roadway dust, the determination of the incombustible content by use of a Gazetted method will prevail.

Division 3 Ventilation

Subdivision 1 Ventilation officers

102 Appointment and qualifications of ventilation officer

- (1) The operator of an underground mine must appoint a person as ventilation officer for the mine (a *ventilation officer*).
- (2) The operator of the mine may, with the consent of the Chief Inspector, appoint the manager of mining engineering as the ventilation officer for such period as the Chief Inspector allows.
- (3) If the ventilation officer has other duties at the mine, the performance of those duties must not compromise the person's duties as ventilation officer.
- (4) A person must not be appointed or act as a mine's ventilation officer unless the person:
 - (a) is competent to perform the functions of a ventilation officer, and
 - (b) has an adequate knowledge of the following:
 - (i) ventilation arrangements at the mine,
 - (ii) monitoring plant and systems in use at the mine,
 - (iii) emergency arrangements at the mine,
 - (iv) any other information relevant to the maintenance of ventilation in the mine.

103 Functions of ventilation officer

- (1) The ventilation officer of an underground mine is responsible for the day-to-day effectiveness of the mine's ventilation arrangements.
- (2) The ventilation officer must take charge of and be present at any change in the ventilation system of the mine or a part of the mine that is not a change that would, in the opinion of the operator, be made in the day-to-day working of the mine.
- (3) If the ventilation officer is unavailable, the operator must ensure that another person who is competent to exercise the functions of a ventilation officer acts in place of the ventilation officer.

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- (4) The ventilation officer must inform the operator if any ventilation regulators at the mine are not of substantial construction or are not properly maintained.
- (5) The ventilation officer must, at intervals not exceeding 35 days, ensure that the quantity of air is measured at points in the mine starting as near as is practicable:
 - (a) to the seam entrance of every shaft or inlet that is an intake airway, and
 - (b) to the commencement of a hazardous zone in every intake area, and
 - (c) to the intake side of a continuous miner that is mining coal or stone, and
 - (d) to each longwall or shortwall face.
- (6) The ventilation officer must ensure that:
 - (a) if any alteration is made in the arrangements for ventilating the mine or part of the mine, or
 - (b) if anything occurs that may or does substantially affect the quantity of air passing any point at which measurements are required to be taken under subclause (5),the quantity of air is measured at the points referred to in subclause (5) as soon as any substantial effect of the alteration or occurrence is apparent.
- (7) If an alteration in the arrangements for ventilating a mine affects a part of the mine in which determinations of the methane content are required to be made under this Division, the ventilation officer must ensure that a determination of the methane content at each place referred to in the relevant clause is made as soon as any effect of the alteration becomes apparent.

104 Measurement of concentrations of gases in air

- (1) The operator of an underground mine must ensure that a ventilation officer, at intervals not exceeding 35 days, samples the mine's air (or arranges for a person competent to exercise the functions of a ventilation officer to sample the mine's air) and ensures that determinations are made of the concentrations of methane, oxygen, carbon dioxide and carbon monoxide present in that air.
- (2) The samples must be taken, and the determinations made in respect of the air, at:
 - (a) in the case of the measurement of concentrations of methane:
 - (i) the commencement of each hazardous zone, and

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- (ii) a point outbye in each return airway in each ventilation split, and
 - (iii) any other point that an inspector specifies in a notice served on the operator, and
- (b) in the case of the measurement of concentrations of oxygen, carbon dioxide or carbon monoxide—points referred to in paragraph (a) (ii) and (iii).
- (3) If there is a Gazetted method by which the mine's air is to be sampled or by which determinations of gas concentrations are to be made, the samples must be taken or the determinations must be made in accordance with that method.
 - (4) A sample of a mine's air required to be taken by this clause must, as far as practicable, be taken while any normal work that may affect the sample is in progress at the mine. If this is not practicable, the person taking the sample must make a written observation concerning the state of working in the relevant parts of the mine at the time.
 - (5) If a determination of methane concentration at the commencement of a hazardous zone shows a methane content in excess of 0.25 per cent by volume the operator must as soon as practicable notify an inspector.

105 Measurements to be recorded

- (1) The operator of an underground mine must ensure that a ventilation officer, without delay, causes all measurements and observations required to be taken or made under this Division to be recorded.
- (2) Such records must be retained at the mine for at least 5 years.

106 Monthly status reports

- (1) The operator of an underground mine must ensure that a ventilation officer, at least monthly, prepares a report on the status of the ventilation at the mine.
- (2) Such reports must be retained at the mine for at least 3 years.
- (3) The manager of mining engineering at the mine must read any such reports and record evidence of having read them.

Subdivision 2 Regulation of ventilation

107 Parts of an underground mine not to be worked unless sufficiently ventilated

The operator of an underground mine must ensure that a part of the mine is not worked unless ventilation sufficient to meet the requirements of the mine's ventilation arrangements is present in that part.

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Clause 108 Coal Mine Health and Safety Regulation 2006

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108 Ventilation regulators

- (1) The operator of an underground mine must ensure that ventilation regulators at the mine are not adjusted, altered or otherwise interfered with except with the authority of, and under the direction of, the ventilation officer.
- (2) A person altering a ventilation regulator at a mine must, before doing so, notify the mining supervisor in charge of the part of the mine to be affected.

109 Procedure where ventilation inadequate

The operator of an underground mine must ensure that, if the ventilation in the mine or a part of the mine ceases to be adequate, the person in charge of the affected area:

- (a) immediately takes such measures as are available to the person to restore adequate ventilation to the affected area, and
- (b) notifies the ventilation officer of the interruption to the ventilation, and
- (c) ensures that no person gains access to that area before adequate ventilation is restored, and
- (d) provides a written report to the operator of the measures taken to restore adequate ventilation.

110 Temperatures in an underground mine

The operator of an underground mine must ensure that no person is exposed to a temperature at the mine in excess of a Gazetted temperature except under such conditions as the Chief Inspector may allow.

111 Precautions against emissions from goaf of inflammable or noxious gas

The operator of an underground mine containing a goaf must ensure that appropriate steps are taken for the purpose of controlling risks posed by emissions of inflammable or noxious gas from the goaf.

112 Ventilation at commencement of hazardous zone

- (1) The operator of an underground mine must take such steps as are necessary to ensure that the ventilation at the commencement of a hazardous zone in each production area is normally kept free from methane.

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- (2) For the purposes of subclause (1), the commencement of a hazardous zone is not considered to be normally free from methane if the average percentage by volume of methane in the general body of air in the airway (from at least 2 determinations over at least 2 days) exceeds 0.25 per cent.
 - (3) For the purposes of subclause (2), a determination by an inspector as to the percentage by volume of methane is to prevail over a determination by any other person.

113 Minimum airflow

The operator of a coal operation must ensure that an airflow of at least 1 cubic metre per second of air movement is maintained at all underground parts of the coal operation where people work.

114 Special ventilation required at certain places

- (1) The operator of an underground mine must ensure that ventilation at the mine is arranged so that:
 - (a) each production area in the mine, and
 - (b) any longwall or shortwall face at the mine that is being worked, is ventilated by a separate current of air and that such air is not used to ventilate any other such area or longwall or shortwall face.
- (2) The air at a working place in the mine must be provided at an adequate velocity to prevent workers from being exposed to a concentration of dust in excess of the Gazetted limit and to prevent over-exposure to pollutants contained in the exhaust from diesel engines.
- (3) The volume of air passing through each continuous miner working place must not be less than 0.3 cubic metres per second for each square metre of normal roadway cross-sectional area.
- (4) For the purposes of subclause (3), the normal roadway cross-sectional area is to be determined by measuring from roadside to roadside, ignoring the presence of ventilation devices and not measuring at any partially or fully completed intersection of 2 roadways.
- (5) The volume of air passing through each longwall working place must not be less than 4 cubic metres per second for each metre of extracted height.
- (6) The volume of air in each place where a diesel engine operates must be such that a ventilating current of not less than:
 - (a) 0.06 cubic metres per second for each kilowatt of maximum output capability of the engine, or

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- (b) 3.5 cubic metres per second, whichever is the greater, is directed along the airway in which the engine operates.
- (7) If more than one diesel engine is being operated in the same ventilating current, the engine kilowatts must be added and the minimum ventilation requirement is 0.06 cubic metres per second per kilowatt or 3.5 cubic metres per second, whichever is the greater.

Subdivision 3 Ventilation failures

115 Failure of ventilation fans constitutes failure of the main ventilation system

For the purposes of this Subdivision, if an underground mine is ventilated by more than one main ventilation fan, a failure of one or more of the fans is taken to be a failure of the main ventilation system.

116 Failure of main ventilation system

The operator of an underground mine must prepare procedures to be followed in the event of failure of the main ventilation system of the mine for the purpose of ensuring the safety and, where considered necessary, the safe withdrawal of people from the underground parts of the mine.

117 Operator's duty where failure of main ventilation system

The operator of an underground mine must ensure that, in the event of a failure of the main ventilation system for part of the mine, every battery-operated portable or mobile machine located in that part is brought out without delay to:

- (a) the main intake airways, or
- (b) a charging or repair station of suitable fireproof construction that is normally ventilated with intake air.

Subdivision 4 Fan installations

118 Ventilation fans

The operator of an underground mine must ensure that every ventilation fan installed at the surface part of the mine for the purpose of ventilating the mine is placed in such a position and under such conditions as to ensure that as far as possible it will not be damaged by an explosion in the mine.

119 Provision and maintenance of airlocks

The operator of an underground mine must ensure that an effective airlock is provided and maintained at each shaft or outlet connected to the main ventilation fan or fans on the surface part of the mine and used for winding or the transport of people or materials.

120 Provision and maintenance of certain plant

The operator of an underground mine must ensure that there is provided and maintained at the surface part of the mine in connection with every main ventilation fan:

- (a) a continuously indicating pressure gauge, and
- (b) a device for continuously indicating and recording the volume of air passing through the fan.

121 Installation of monitoring system

- (1) The operator of an underground mine must ensure that a system complying with this clause is installed and maintained to monitor the operation of the main ventilation fan or fans at the mine.
- (2) The system must provide for the giving of an alarm at the surface part of the mine if the fan or fans stop.

122 Auxiliary ventilation fans

The operator of an underground mine must ensure that an auxiliary ventilation fan used in the underground parts of the mine is located and operated in such a manner as to prevent recirculation of air through the fan.

Subdivision 5 Doors, sheets, stoppings and air crossings**123 Provision of fireproof doors**

- (1) The operator of an underground mine must ensure that, if a road that is required for the working of the mine connects a main intake airway and a main return airway in the coal operation, at least 2 suitable fireproof doors are provided and maintained to minimise the leakage of air.
- (2) The doors must be spaced far enough apart so as to act as an airlock for people or vehicles passing through.

124 Ventilating sheet and non-metallic ventilating ducting

The operator of an underground mine must ensure that a ventilating sheet or non-metallic ventilating ducting is not used in the mine unless it is of material that:

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- (a) does not give rise to a risk of fire or static electricity, and
- (b) meets any Gazetted requirements.

125 Leakage of air through sheets or ducts to be minimised

The operator of an underground mine must ensure that sheets or ducts used to direct the ventilation in a working place in any part of the mine are erected and maintained so as to minimise any leakage of air.

126 Stoppings and air crossings

The operator of an underground mine must ensure that:

- (a) all stoppings and air crossings constructed between main intake airways and return airways in the mine are substantial in structure, airtight (so far as is practicable), fireproof and designed to minimise damage in an explosion, and
- (b) all stoppings and air crossings between split intakes and return airways in the mine are reasonably airtight and fireproof and are of substantial structure up to the commencement of any hazardous zone, and
- (c) a stopping constructed for the purpose of sealing off a part of the mine is substantial in structure, reasonably airtight and designed to resist damage in the event of an explosion, and
- (d) provision is made to allow sampling of the atmosphere in the sealed off area.

Subdivision 6 Presence of inflammable or noxious gases

127 Procedure where risky conditions exist by reason of the presence of inflammable or noxious gases

- (1) In an underground mine, a person (not being a mining supervisor) who finds or suspects that an accessible place at the mine constitutes a risk by reason of the presence of inflammable or noxious gases must notify a mining supervisor of the risk.
- (2) A mining supervisor notified of such a place of risk must, as soon as practicable, and as far as safely possible, inspect the place.
- (3) A mining supervisor who finds that a place at the mine constitutes a risk by reason of the presence of inflammable or noxious gases must:
 - (a) immediately remove other people from the place and isolate or fence-off the place, and
 - (b) take such steps as are available to the mining supervisor to eliminate the risk and then, as soon as practicable, report the risk, and the steps taken to eliminate it, to the operator of the mine.

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- (4) If the risk has not been eliminated, the operator must control the risk.
 - (5) A mining supervisor must ensure that a record of any report made under subclause (3) (b) is made before the end of the relevant shift.
 - (6) Such records must be retained at the mine for at least 5 years.
 - (7) For the purpose of this clause, a place is taken to constitute a risk:
 - (a) by reason of the presence of inflammable gases if the percentage of inflammable gases in the general body of air in that place is found to be 2 per cent or more, or
 - (b) if it is within a hazardous zone, electrical apparatus is in use and the percentage of inflammable gases in the air is 1.25 per cent or more.

128 Procedure where other risky conditions exist

In an underground mine, a person (not being a mining supervisor) who causes, or becomes aware of, any obstruction in or interference with the ventilation, or any stagnation of, or impurity in, the air in a place at the mine must:

- (a) if the remedy is within the scope of the person's duties, immediately remedy the matter, and
- (b) if the remedy is not within the scope of the person's duties, immediately inform a mining supervisor, and
- (c) if able to do so, ensure that work at the place ceases.

Subdivision 7 Periodic audit of ventilation arrangements**129 Engagement and qualifications of ventilation engineers**

- (1) The operator of an underground mine must engage a person as ventilation engineer for the mine (a *ventilation engineer*).
- (2) A person must not be engaged, or act, as a mine's ventilation engineer unless the person:
 - (a) is competent to exercise the functions of a ventilation engineer, and
 - (b) has an adequate knowledge of audit and review methods applicable to engineering systems, and
 - (c) is the holder of a licence for auditing ventilation arrangements granted under Part 5.

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Clause 130 Coal Mine Health and Safety Regulation 2006

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130 Periodic audit of ventilation arrangements

- (1) The operator of an underground mine must ensure that the ventilation arrangements at the mine are audited on a periodic basis, at intervals of no more than one year.
- (2) Audits must be conducted by a ventilation engineer appointed under this Subdivision.
- (3) The operator must, in respect of each audit of the mine's ventilation arrangements, obtain from the person conducting the audit a report:
 - (a) as to whether or not the arrangements are being followed at the mine, and
 - (b) as to whether or not the intended aims of the arrangements are being achieved.

Division 4 Escape

131 Provision of means of escape

The operator of an underground mine must provide sufficient means of escape (including escape plant and adequately maintained self-rescuers) to allow safe egress of people from underground parts of the mine through conditions of reduced visibility and any irrespirable or irritant atmospheres that are likely to be encountered.

132 Familiarising people with means of escape

- (1) The operator of an underground mine must ensure that people who work in underground parts of the mine are familiarised, in accordance with this clause, with the means of escape from underground parts of the mine that could be used in the case of an emergency.
- (2) People must be familiarised with the means of escape when they are first employed at the mine and at least once every 6 months after that.
- (3) People who were employed at the mine immediately before the commencement of this clause must be familiarised with the means of escape within 2 months after the commencement of this clause and at least once every 6 months after that.

133 Self-rescuer

A person who is in the underground part of a coal operation must at all times have attached to him or her a type of self-rescuer that is registered under the *Occupational Health and Safety Act 2000*.

Division 5 Operation of transport**134 Only specifically appointed and trained people can operate transport**

- (1) The operator of a coal operation must ensure that no person operates plant used for transport at the coal operation unless the person has been appointed by the operator to operate plant of that type.
- (2) The operator must not appoint a person to operate plant used for transport at the coal operation unless the person has undertaken the training required by the operator of the coal operation for plant of that kind.

135 Defects in transport

On becoming aware of any defect in any plant used for transport at a coal operation (or associated plant), the operator of the coal operation must take such action as the operator considers necessary to secure the safety of people directly and indirectly involved.

136 Engine not to be left running

The operator of a coal operation must ensure that the engine of mobile plant at the coal operation is not left running while the plant is unattended.

137 Operation of transport

The operator of a coal operation must ensure that, if an automatic methane detector fitted to plant used for transport at a coal operation produces an audible or visible alarm:

- (a) if it is safe to do so—the plant is withdrawn to an intake airway, or
- (b) if it is not safe to withdraw it to an intake airway—the plant is shut down,

and that a mining supervisor is made aware of the occurrence of the alarm.

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Clause 138 Coal Mine Health and Safety Regulation 2006

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Division 6 Surveys and certified plans

Note. The qualifications required of a person preparing plans required by or under the Act and requirements for the content and standard of preparation of those plans are subject to provisions in or under the *Surveying Act 2002*. In particular, section 22 of that Act makes it an offence for a person to carry out a mining survey (which includes any survey carried out for the purposes of the *Coal Mine Health and Safety Act 2002*) for fee or reward unless the person is a registered mining surveyor.

138 Surveys

- (1) The operator of a coal operation must put in place arrangements (*survey and plan arrangements*) to ensure that up-to-date surveys are conducted of the operation and up-to-date plans are prepared and retained at the operation.
- (2) The survey and plan arrangements must cater for the following:
 - (a) the conduct of surveys and the preparation and certification of plans in accordance with the survey and drafting directions,
 - (b) the retention at the coal operation of the following plans:
 - (i) a mine workings plan prepared by or under the supervision of a registered mining surveyor and certified by a registered mining surveyor to have been prepared in accordance with the survey and drafting directions,
 - (ii) in the case of an underground mine—a ventilation plan,
 - (iii) a surface plan,
 - (iv) any other plans required by the Act or this Regulation.

139 Mine record tracings to be sent to Director-General

The operator of a coal operation must ensure that a copy of the mine workings plan (*a mine record tracing*) is sent to the Director-General when the plan is first prepared and whenever it is updated (which must be in accordance with the survey and drafting directions).

140 Duty of operator when ceases to operate coal operation

If an operator is to cease to operate a coal operation and is to be replaced by another operator, the outgoing operator must:

- (a) update the mine workings plan so that it provides an accurate description of the coal operation workings at the time the operator ceases to operate the coal operation, and
- (b) provide the updated plan to the incoming operator.

141 Security of mine record tracings

- (1) The Director-General must:
 - (a) keep mine record tracings safe and secure, and
 - (b) prevent any unauthorised alteration or addition to their content.
- (2) The Director-General must:
 - (a) make the mine record tracings relating to a particular coal operation available for examination by, and supply a copy on request to, any person who, in the opinion of the Director-General, has a legal or equitable interest in land that has been or is likely to be affected by the coal operation concerned and who has a concern for safety arising from that affectation, and
 - (b) make available to that person any information relevant to that mine record tracing that is under the control of the Director-General, and
 - (c) inform the operator of the coal operation concerned of the name and address of the person to whom the copy was supplied (but not the name or address of a person who merely examined the copy).

142 Supply of record tracing

The examination or supply of a copy of a mine record tracing is subject to any reasonable conditions that the Director-General may see fit to impose.

143 Duties of mining surveyors

A mining surveyor must ensure that:

- (a) any variation of the coal operation workings from a mine workings plan of which the surveyor becomes aware, or
 - (b) any interference with or obstruction to the performance of his or her functions, or
 - (c) any doubt about the accuracy of any plans,
- is brought to the attention of the relevant operator.

Division 7 Underground work by children and young people**144 Minimum age for underground work**

- (1) A person must not employ a person who is under 16 years of age in the underground parts of a coal operation.

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Part 4 Safety at coal operations

- (2) A person may employ a person who is 16 years of age, but under 18 years of age, in the underground parts of a coal operation only if the person is receiving specific instruction or vocational training in relation to working in the underground parts at a coal operation.

145 Records

- (1) The operator of an underground mine must keep the following records of the employment of each person under 18 years of age who works in the underground parts of the mine:
- (a) the date of birth of the person, and the means by which that date of birth was proven to the satisfaction of the operator,
 - (b) the date on which the person commenced working in the underground parts of the mine.
- (2) The operator of an underground mine must make those records available, on request, to a government official or an industry check inspector.

Division 8 Exercise of functions by people

146 Exercise of functions by people

If the operator of a coal operation requires a person to exercise a function required by this Regulation to be exercised by the operator, the operator must ensure that:

- (a) the person is competent to exercise the function, and
- (b) a record of the assessment of the person's competence is retained at the coal operation for so long as the person is required to exercise the function.

147 Assessment of competence of people

In assessing a person's competence, a coal operator, or person assessing competence on behalf of the coal operator, must make use of recognised means of assessment, including the following:

- (a) any lawful means for directly observing the person's performance of the work under workplace conditions,
- (b) simulated work-related tasks to be performed,
- (c) checklists to be completed by the person,
- (d) projects or assignments to be completed by the person,
- (e) test questions.

Division 9 Fitness for work program

148 Fitness for work program

- (1) The operator of a coal operation must prepare and implement a fitness for work program in relation to the health, safety and welfare at work of all the people employed at the coal operation.
- (2) The fitness for work program must be developed in consultation with the people employed at the coal operation.
- (3) The fitness for work program must include:
 - (a) measures to eliminate or control the risks arising from the consumption of intoxicating liquor or drugs at the coal operation, and
 - (b) measures to eliminate or control the risks arising from fatigue.

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Part 5 Certain activities require licence

Part 5 Certain activities require licence

149 Definitions

(1) In this Part:

licence means a licence to carry on the business of a licensable activity granted and in force under this Part.

licensable activity means one of the following activities:

- (a) overhaul and repair of explosion-protected electrical plant of the type referred to in clause 19 (1) (e) (i),
- (b) repair of flexible reeling, feeder and trailing cables of the type referred to in clause 19 (1) (e) (ii) for use in hazardous zones,
- (c) auditing of dust explosion management plans made under clause 36,
- (d) sampling and analysis of airborne dust under clauses 38 and 39,
- (e) a high risk activity of a type referred to in clause 49 Gazetted as a licensable activity,
- (f) sampling and analysis of diesel engine exhaust under clause 74,
- (g) sampling and testing of roadway dust under Subdivision 2 of Division 2 of Part 4 otherwise than by an explosion suppression officer,
- (h) auditing of ventilation arrangements under Subdivision 7 of Division 3 of Part 4.

(2) For the purposes of this Part:

- (a) a person carries on a business if the person carries on the business personally, in partnership or by employees or agents or if the person advertises that the person carries on such a business, and
- (b) a person does work if the person does the work personally, in partnership or by employees or agents.

150 Licensable activity not to be carried on without a licence

- (1) A person must not carry on the business of a licensable activity at, or in connection with, a coal operation otherwise than in accordance with a licence relating to that activity.
- (2) A person must not employ, direct or allow another person to carry out a licensable activity unless that other person holds a licence relating to that activity.
- (3) A person must not:
 - (a) contravene the conditions of a licence, or

-
- (b) direct or allow another person to contravene the conditions of a licence.

151 Operator's obligations

The operator of a coal operation must afford a person carrying out a licensable activity at the coal operation every reasonable facility in the undertaking of the activity in a safe manner.

152 Applications for licences

- (1) An application for a licence:
- (a) must specify the licensable activity for which the licence is required, and
 - (b) must be in a form that contains any particulars or information specified by the Chief Inspector for the activity, and
 - (c) must be given to the Chief Inspector.
- (2) An application by people who intend to carry on business in partnership may be made by any one or more of those people.

Note 1. Section 217 of the Act provides that if the regulations require something to be sent or given to the Chief Inspector, it is enough if it is sent or given to a person, or left at a place, specified by the Chief Inspector by order published in the Gazette.

Note 2. An applicant for a licence commits an offence under section 307A of the *Crimes Act 1900* if the applicant makes a false or misleading statement in the application.

153 Eligibility for licence

- (1) A person is eligible for a licence if the Chief Inspector is satisfied that:
- (a) in the case of an individual:
 - (i) the individual is of or above the age of 18 years, and
 - (ii) the individual is a fit and proper person to hold a licence, and
 - (iii) the individual has appropriate qualifications in relation to the relevant licensable activity, and
 - (iv) appropriate arrangements exist to ensure that the individual's employees do not carry out a licensable activity unless they have had training in safe working methods in relation to the licensable activity, and
 - (b) in the case of a corporation:
 - (i) the corporation is a fit and proper person to hold a licence, and

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- (ii) each director of the corporation would, if he or she were the applicant, be a fit and proper person to hold a licence, and
 - (iii) at least one individual engaged in the management of the corporation has appropriate qualifications in relation to the licensable activity, and
 - (iv) appropriate arrangements exist to ensure that the corporation's employees do not carry out the licensable activity unless they have had training in safe working methods in relation to the licensable activity, and
 - (c) appropriate arrangements exist to ensure that, during the carrying out of the licensable activity, a person holding appropriate qualifications in relation to the licensable activity (whether or not the holder of the licence) will supervise the carrying out of the activity.
- (2) For the purposes of this Part, a person holds appropriate qualifications in relation to a licensable activity if the person:
- (a) has demonstrated his or her knowledge of safe working methods in relation to the licensable activity, or
 - (b) has completed a course of training specified by the Chief Inspector in relation to the licensable activity, or
 - (c) has, in the opinion of the Chief Inspector, appropriate experience or training in the carrying out of the licensable activity, or
 - (d) has any facilities or quality assurance arrangements specified by the Chief Inspector.

154 Determination of applications

- (1) After considering an application, the Chief Inspector:
 - (a) may grant the licence to which the application relates, either unconditionally or subject to conditions, or
 - (b) may refuse the application if the Chief Inspector is satisfied that the applicant is not eligible for the licence.
- (2) A licence is to specify the licensable activity to which it relates.
- (3) If the Chief Inspector grants more than one licence to an applicant, the Chief Inspector may issue a single document in respect of those licences.

155 Notice of refusal

If the Chief Inspector refuses to grant a licence, the Chief Inspector must give written notice of the refusal, and of the reasons for the refusal, to the applicant.

156 Term of licences

A licence remains in force, unless sooner suspended or cancelled, for a period of 5 years commencing on the date on which it is granted, or for such other period as may be specified in the licence.

157 Condition of licence relating to supervision

It is a condition of a licence that, during the carrying out of the licensable activity, a person holding appropriate qualifications in relation to the licensable activity (whether or not the holder of the licence) must supervise the carrying out of the activity.

158 Amendment of conditions of licences

- (1) The Chief Inspector, on the application of the holder of a licence or on his or her own initiative:
 - (a) may amend or cancel any condition to which the licence is subject, or
 - (b) may impose further conditions on the licence.
- (2) An amendment to a condition, or a further condition, takes effect on the date on which written notice of the amendment or imposition of a further condition is given to the holder of the licence or on such later date as may be specified in the notice.

159 Licences to be displayed

A person who carries on a licensable activity at any place must cause a copy of the relevant licence to be displayed or available for examination at that place while the activity is being carried out.

160 Suspension or cancellation of licences

- (1) The Chief Inspector may suspend or cancel a licence if satisfied that the holder of the licence:
 - (a) has made a statement, in or in connection with an application for the licence, that the holder knew, when the statement was made, to be false or misleading in a material particular, or

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Part 5 Certain activities require licence

- (b) has carried out, or authorised the carrying out of, a licensable activity in such a manner as to expose any person (including any of his or her employees or agents) to a health or safety risk from the licensable activity that could reasonably have been avoided, or
 - (c) has contravened a condition of the licence, or
 - (d) has failed to comply with the requirements of an improvement notice or prohibition notice under the *Occupational Health and Safety Act 2000*, or
 - (e) has been convicted of an offence against the Act or any regulation (including this Regulation) under the Act, or
 - (f) in the case of an individual, is no longer a fit and proper person to hold the licence, or
 - (g) in the case of a corporation, has a director who is no longer a fit and proper person to hold a licence.
- (2) Before suspending or cancelling a licence, the Chief Inspector:
- (a) must cause notice of the proposed suspension or cancellation to be given to the holder of the licence, and
 - (b) must give the holder of the licence a reasonable opportunity to make representations to the Chief Inspector in relation to the proposed suspension or cancellation, and
 - (c) must have regard to any representations so made.
- (3) The suspension or cancellation of a licence takes effect on the date on which written notice of the suspension or cancellation is given to the holder of the licence or on such later date as may be specified in the notice.

161 Cancelled licences to be returned to the Chief Inspector

The holder of a cancelled licence must return the licence to the Chief Inspector within such period as may be specified in the notice of cancellation.

Part 6 Competence standards

Division 1 Key obligations

162 Functions to which Part 9 of the Act applies and evidence of competence to perform those functions

- (1) For the purposes of section 125 (1) of the Act, the functions to which Part 9 of the Act applies are the functions specified in the Table to this clause.
- (2) For the purposes of section 125 (2) of the Act, the evidence specified in relation to a function specified in the Table to this clause is sufficient evidence of competence to perform that function.

Table

Specified function	Specified evidence of competence
Functions of a manager of mining engineering at an open cut mine	Certificate of competence to be a manager of an open cut mine or a manager of a mine
Functions of a manager of mining engineering at an underground mine	Certificate of competence to be a manager of a mine
Functions of a manager of electrical engineering at an underground mine	Certificate of competence to be a mine electrical engineer
Functions of a manager of mechanical engineering at an underground mine	Certificate of competence to be a mine mechanical engineer
Functions of a mining supervisor	<p>FOR AN UNDERGROUND MINE:</p> <p>Certificate of competence to be a deputy, or</p> <p>Certificate of competence to be an under manager of a mine, or</p> <p>Certificate of competence to be a manager of a mine</p> <p>FOR AN OPEN CUT MINE:</p> <p>Certificate of competence to be an examiner of an open cut mine, or</p> <p>Certificate of competence to be a manager of an open cut mine, or</p> <p>Certificate of competence to be a manager of a mine</p>

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Specified function	Specified evidence of competence
Functions of a qualified electrical engineer	<p>Where electrical plant in any underground parts of the coal operation is concerned or where electrical effects may be transferred to the underground parts of the coal operation—the evidence of competence required to be a manager of electrical engineering determined by the Minister</p> <p>Where electrical plant on the surface part of the coal operation is concerned—either the evidence of competence required to be a mine electrical engineer determined by the Minister or registration on the National Professional Engineers Register (administered by Engineers Australia)</p>
Functions of a qualified mechanical engineer	<p>Where plant or structures in the underground parts of the coal operation are concerned—the evidence of competence required to be a manager of mechanical engineering determined by the Minister</p> <p>Where plant or structures on the surface part of the coal operation is concerned—either the evidence of competence required to be a mine mechanical engineer determined by the Minister or registration on the National Professional Engineers Register (administered by Engineers Australia)</p>
Functions of a qualified electrical tradesperson	<p>Both an electrical trades certificate and a Qualified Supervisor Certificate (issued by the Department of Commerce), or</p> <p>Employment as an electrical tradesperson at a coal operation for a period of not less than 2 years prior to the commencement of this clause</p>

Specified function	Specified evidence of competence
Functions of a qualified mechanical tradesperson	A relevant mechanical trades certificate, or Employment as a mechanical tradesperson at a coal operation for a period of not less than 2 years prior to the commencement of this clause
A person who supervises the loading and detonation of explosives underground	A licence under the <i>Explosives Act 2003</i> that authorises the handling of that type of explosive
A person who supervises the loading and detonation of explosives on the surface part of a coal operation	A licence under the <i>Explosives Act 2003</i> that authorises the handling of that type of explosive
A qualified ventilation engineer at a coal operation that has underground parts	A Graduate Diploma in Mine Ventilation from the University of New South Wales or a qualification Gazetted as an equivalent qualification
A qualified ventilation officer at a coal operation that has underground parts	A Statutory Coal Mine Ventilation Officer's Qualification from the University of New South Wales or a certificate of competence to be the manager of a mine

Division 2 Development of competence standards

163 Development of competence standards

The Board may develop guidelines for the development of competence standards of people performing functions at coal operations.

Division 3 Assessment of competence standards

164 Guidelines for assessment of competence standards

The Board may develop guidelines for the assessment of competence standards of people performing functions at coal operations.

165 Assessment of competence standards

In assessing the competence of a person to perform a function, the Board may accept:

- (a) any relevant qualifications that are for the time being accepted by the Board as being equivalent to a certificate of competence, or

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Part 6 Competence standards

- (b) the applicant's learning and experience, or
- (c) a demonstration of competence in examinations conducted by or on behalf of the Board, or
- (d) the results of any previous assessments.

166 Conduct of examinations

Examinations (whether oral or written, or both oral and written) approved by the Board for the purposes of assessing competence to perform a function are to be conducted at such times and places as the Board may determine.

167 Appointment and functions of examiners

- (1) The Board may appoint examiners to assess the competence of a person to perform a specified function.
- (2) Examiners must follow any guidelines established by the Board for the assessment of a person's competence.

Division 4 Certificates of competence

168 Granting of certificates of competence subject to Board's recommendation

- (1) In granting a certificate of competence, the Minister must consider any recommendation of the Board.
- (2) Following an assessment of a person's competence, the Board may recommend to the Minister that a certificate of competence be granted subject to conditions.

169 Refusal to grant certificates of competence

- (1) The Board may refuse to recommend the granting of a certificate of competence to a person if any relevant certificate, qualification or exemption held by the applicant has been suspended and not reinstated, or cancelled, within the previous 5 years.
- (2) This clause does not limit the other grounds on which the Board may refuse to recommend the granting of the certificate.

170 Refusal of certificates of competence

If an application for a certificate of competence is refused, the Board must ensure that written notice of the refusal is given to the applicant.

171 Replacement of certificates of competence

- (1) The holder of a certificate of competence issued by the Minister that is lost, stolen, damaged or destroyed may apply to the Board for a replacement certificate.
- (2) The Minister may grant a replacement certificate if satisfied that the applicant's certificate of competence has been lost, stolen, damaged or destroyed.
- (3) If an application for the replacement of a certificate of competence is refused, the Board must ensure that written notice of the refusal is given to the applicant.

172 Range of specified functions that the holder of specified evidence of competence can perform

A person who is the holder of more than one certificate of competence is authorised to perform functions in relation to any or all of the certificates.

Division 5 Maintenance of competence**173 Maintenance of competence**

- (1) Subject to the Minister's approval, the Board may establish requirements for the maintenance of competence for holders of a certificate of competence.
- (2) Compliance with any such requirement is a condition of the relevant certificate of competence.

Note. Requirements for the maintenance of competence for holders of certificates of competence apply to certificates granted under the *Coal Mines Regulation Act 1982* and taken to have been granted under the *Coal Mine Health and Safety Act 2002* in the same way as they apply to certificates granted under the latter Act.

Division 6 Suspension or cancellation of certificates**174 Suspension or cancellation of certificates**

- (1) The Minister may suspend or cancel a person's certificate of competence if the Minister is satisfied that:
 - (a) the person is no longer competent to perform the functions authorised by the certificate, or
 - (b) the person can no longer be relied on to perform functions of the kind authorised by the certificate without risking the health and safety of the holder or any other person, or

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Part 6 Competence standards

- (c) the person is not complying with any relevant requirements for maintenance of competence, or
 - (d) the certificate was obtained on the basis of false or misleading information or a failure to disclose or provide required information.
- (2) Before suspending or cancelling a person's certificate of competence, the Minister:
- (a) must cause written notice of the proposed suspension or cancellation to be given to the person, and
 - (b) must give the person a reasonable opportunity to make representations to the Minister in relation to the proposed suspension or cancellation, and
 - (c) must have regard to any representations so made.
- (3) If, after having regard to any representations made by the person, the Minister decides to proceed with the proposed suspension or cancellation, the Minister must give to the person a written notice:
- (a) stating that the certificate is suspended or cancelled, and
 - (b) in the case of a suspension, specifying the period for which the certificate is suspended, and
 - (c) giving reasons for the suspension or cancellation.
- (4) The suspension or cancellation takes effect on the date on which notice of the suspension or cancellation is given to the person or such later date as may be specified in the notice.

175 Immediate suspension

- (1) The Chief Inspector may, by written notice served on the holder of a certificate of competence, immediately suspend the certificate for a period of up to 10 days if, in the opinion of the Chief Inspector, the holder is unfit to hold the certificate by reason of incompetence or negligence.
- (2) The notice of suspension:
- (a) must specify the period for which the certificate is suspended, and
 - (b) must give reasons for the suspension, and
 - (c) must state that the holder of the certificate of competence may object to the suspension by providing the Chief Inspector with reasons why the suspension should not be maintained for that period.

- (3) The Chief Inspector must immediately terminate the suspension and give written notice to the holder of the certificate of that fact if, after considering any objection by the holder, the Chief Inspector is satisfied that the suspension should not be maintained.

176 Cancelled certificates must be surrendered

The holder of a certificate of competence that is cancelled must surrender the certificate to the Board within such period as may be specified in the notice of cancellation.

Division 7 Restoration of certificates**177 Restoration of certificates**

- (1) An application for the restoration of a certificate of competence may be made to the Minister by the holder of the certificate at any time after the certificate expires or is suspended or cancelled.
- (2) In considering an application for restoration of a certificate of competence, the Board may require such information from, and re-assessment of, the person prior to recommending to the Minister that:
- (a) the certificate of competence be restored unconditionally or subject to conditions, or
 - (b) a certificate of competence in relation to a different function than the certificate applied for be granted to that person.
- (3) An application under subclause (1) must be in a form, and contain such particulars, as may be specified by the Board.

Division 8 Declarations that a person's competence is not recognised**178 Ministerial declarations that a person's competence is not recognised**

- (1) A declaration under section 138 (1) (h) of the Act that a person's competence is not recognised may be made only in accordance with this clause.
- (2) The Minister must be satisfied that:
- (a) the person is not competent to perform the specified function corresponding to the person's evidence of competence, or
 - (b) the person can no longer be relied on to perform the specified function corresponding to the person's evidence of competence without risking the health or safety of the holder or any other person, or

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- (c) the person has been convicted of an offence against the *Occupational Health and Safety Act 2000*, the *Coal Mine Health and Safety Act 2002* or the regulations made under either Act and as a consequence of that conviction is no longer a fit and proper person to perform the function corresponding to the person's evidence of competence, or
 - (d) the person's evidence of competence was obtained on the basis of false or misleading information or a failure to disclose or provide required information.
- (3) Before making a declaration, the Minister:
 - (a) must cause written notice of the proposed declaration to be given to the holder of the evidence of competence, and
 - (b) must give the person a reasonable opportunity to make representations, or to allow representations to be made by other people, to the Director-General in relation to the proposed declaration, and
 - (c) must have regard to any representations so made.
- (4) If, after having regard to any representations made by the holder of the evidence of competence, the Minister decides to proceed with the proposed declaration, the Director-General must give to the holder a written notice:
 - (a) stating that the Minister is to proceed with the proposed declaration, and
 - (b) giving reasons for the declaration.
- (5) The declaration takes effect on the date on which notice of the declaration is given to the person or such later date as may be specified in the notice.
- (6) If the Minister is of the opinion that it is in the interests of safety, the Minister may order that:
 - (a) a declaration remains in effect, or
 - (b) the exercise of the specified function corresponding to the person's evidence of competence is to be restricted in a way determined by the Minister,pending the outcome of any proceedings related to the declaration under the *Administrative Decisions Tribunal Act 1997*.

179 Certificates must be surrendered

If a declaration referred to in clause 178 is made and the evidence of the relevant competence comprises a certificate of competence granted by the Minister, then the holder must surrender the certificate to the Board within such period as may be specified in the notice of declaration.

Division 9 Miscellaneous

180 Register of certificates of competence

- (1) The Board must ensure that a register of the holders of certificates of competence is kept.
- (2) The Board must ensure that a record is kept of people whose qualifications are recognised by the Board as being equivalent to a certificate of competence.

181 Fees

The Board may determine, subject to the approval of the Minister, the fees payable by a person for any service provided in connection with the administration or execution of the functions of the Minister or the Board in relation to competence standards.

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Part 7 Coal Competence Board

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Division 1 Constitution of Board

182 Nomination of panels for appointment as members

- (1) For the purposes of section 132 (1) (b) and (c) of the Act, if submissions of representatives to constitute a panel are not made within the time and in the manner directed by the Minister, the Minister may appoint a person to be a member instead of the person required to be appointed from the panel.
- (2) The Minister may decline to accept the submission of any person to represent employers or employees if the nomination is made by a body that, in the opinion of the Minister, is not sufficiently representative of employers or employees, as the case may be.

183 Terms of office of members

Subject to this Division, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

184 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

185 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

- (g) becomes a mentally incapacitated person, or
- (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

- (2) The Minister may remove a member from office at any time.

186 Filling of vacancy in office of member

- (1) If the office of any member becomes vacant, a person is, subject to the Act and this Part, to be appointed to fill the vacancy.
- (2) The Minister is not bound to use an existing panel when filling a vacancy of an employer representative or employee representative, but may seek the submission of additional representation to the panel or the formation of a new panel.

187 Chairperson and Deputy Chairperson

- (1) The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if he or she:
 - (a) is removed from that office by the Minister under this clause, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member of the Board.
- (2) The Minister may at any time remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson.

188 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or

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- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,
is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of the fee determined by the Board.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines:
 - (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.
- (7) This clause applies to a member of a committee of the Board and the committee in the same way as it applies to a member of the Board and the Board.

Division 2 Committees of Board

189 Committees of Board

- (1) The Board may establish committees to assist it in the exercise of its functions.
- (2) It does not matter that any or all of the members of a committee are not members of the Board.
- (3) Unless determined otherwise by the Board, the procedure of a committee is to be the same as for the Board.

Division 3 Procedure of Board**190 General procedure**

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Part, to be as determined by the Board.

191 Quorum

The quorum for a meeting of the Board is a majority of its members for the time being.

192 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, a person elected by the members of the Board who are present at a meeting of the Board) is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

193 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

194 Transaction of business outside meetings or by telephone

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

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Clause 195 Coal Mine Health and Safety Regulation 2006

Part 7 Coal Competence Board

- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

195 Record of proceedings

The presiding member at a meeting of the Board must cause a record of the proceedings at the meeting to be made.

196 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

Part 8 Check inspectors

197 Training of site check inspectors

For the purposes of section 165 of the Act, the operator must ensure that training of a site check inspector is undertaken as soon as practicable after a site check inspector is elected (unless the site check inspector has previously undertaken an accredited course of training).

198 Qualifications for industry check inspectors

For the purposes of section 173 of the Act, the qualifications for industry check inspectors are:

- (a) a certificate of competence to be a deputy or an open cut examiner at a coal operation, and
- (b) completion of the accredited course of training for site check inspectors required by section 165 of the Act.

199 Functions of industry check inspectors

For the purposes of section 174 (e) of the Act, the functions of an industry check inspector include participation in:

- (a) inspections, and
- (b) examinations, and
- (c) discussions, and
- (d) meetings, and
- (e) interviews (other than formal interviews),

conducted at a coal operation and in connection with the investigation of a notifiable incident.

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Clause 200 Coal Mine Health and Safety Regulation 2006

Part 9 Exemptions

Part 9 Exemptions

200 Exemptions for particular people on application

- (1) A person may apply to the Chief Inspector for an exemption from any provision of this Regulation.
- (2) Before making such an application, the person must cause notice of the proposed application to be given:
 - (a) to all people employed at the coal operation concerned, or
 - (b) in accordance with any consultation arrangements agreed by the operator of a coal operation and the people who work at the coal operation.
- (3) The notice:
 - (a) must state that the person proposes to seek an exemption from this Regulation, and
 - (b) must state the effect of such an exemption, and
 - (c) must invite the people to whom the notice is given to make submissions, in writing or orally, concerning the proposal to apply for the exemption, and
 - (d) must specify the person to whom, and the date by which, any such submissions must be made.
- (4) An application must be in writing and must include copies of the written submissions, and a summary of the oral submissions, made in connection with the application.
- (5) On receipt of the application, the Chief Inspector:
 - (a) may, by order in writing, exempt the person from a specified provision of this Regulation if the Chief Inspector is satisfied that:
 - (i) the person is capable of achieving at least an equivalent level of safety as would be achieved if the provision had been complied with, or
 - (ii) the application of the provision to the person is inappropriate or unnecessary in the circumstances, or
 - (b) may dismiss the application.
- (6) An exemption under this clause may be given unconditionally or subject to such conditions as the Chief Inspector considers appropriate and specifies in the order.

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- (7) Unless withdrawn, an exemption under this clause has effect for such period (not exceeding 5 years) as is specified in the exemption. If no such period is specified, the exemption has effect for a period of 5 years after it is granted.
 - (8) The Chief Inspector may, by order in writing served on the person concerned, withdraw an exemption under this clause if the Chief Inspector is satisfied that the withdrawal is justified on health or safety grounds.

Note. See clause 209 as to the review by the Administrative Decisions Tribunal of a decision by the Chief Inspector to dismiss an application for an exemption, to impose a condition on an exemption or to withdraw an exemption.

201 Exemptions for classes of people or things

- (1) The Chief Inspector may, by order published in the Gazette, exempt any class of people or things from a specified provision of this Regulation.
- (2) An exemption under this clause may be unconditional or subject to such conditions as the Chief Inspector considers appropriate and specifies in the order.
- (3) Unless earlier withdrawn, an exemption under this clause has effect for such period (not exceeding 5 years) as is specified in the exemption. If no such period is specified, the exemption has effect for a period of 5 years after it is granted.
- (4) The Chief Inspector may, before granting an exemption under this clause, give notice of the proposed exemption to such people or bodies as the Chief Inspector considers appropriate.
- (5) The Chief Inspector may, by order published in the Gazette, withdraw an exemption under this clause if the Chief Inspector is satisfied that the withdrawal is justified on health or safety grounds.

202 Register of exemptions

- (1) The Chief Inspector is required to keep and make available for public inspection a register of all exemptions granted under this Part that are in force.
- (2) The Chief Inspector is not required to include in the register confidential personal information about an individual or information relating to manufacturing or commercial secrets or working processes.

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Clause 203 Coal Mine Health and Safety Regulation 2006

Part 10 Miscellaneous

Part 10 Miscellaneous

Division 1 Workplace injury records and reporting

203 Meaning of “workplace injury”

In this Division:

medical treatment means treatment by a doctor (within the meaning of the *Medical Practice Act 1992*), by a nurse (within the meaning of the *Nurses and Midwives Act 1991*) or by a person qualified to give first aid.

workplace injury means any personal injury sustained by a person at the person’s place of work (whether the person is an employee or a contractor):

- (a) that requires medical treatment, or
- (b) that results in an inability of the person to perform his or her normal job duties at any time after the injury, or
- (c) that requires the person to perform alternative duties,

and includes an injury sustained at a place of work to which the Act applies, and journey injuries sustained while travelling to or from the place of work, but does not include an injury sustained otherwise.

204 Workplace injury records

- (1) The operator of a coal operation must keep the following records of the occurrence of any workplace injury to either an employee of the operator or a contractor:
 - (a) the time and date of the injury or, if the time or date is not known, the time and date on which the injury is taken to have been sustained,
 - (b) the nature of the injury,
 - (c) the cause of the injury,
 - (d) whether the injured person is an employee of the operator or is a contractor,
 - (e) the identification of any item of plant involved,
 - (f) the ratio of the number of employees to the number of contractors working at the coal operation at the time of the injury,
 - (g) the period of time (if any) that the injured person had been on duty at the coal operation on the day or shift on which the injury occurred,
 - (h) any other Gazetted details.

- (2) Any record made under this clause must be retained at the coal operation for at least 5 years.

205 Chief Inspector to be informed

- (1) The Chief Inspector may, by notice in writing, require the operator of a coal operation to furnish the Chief Inspector with specified information concerning workplace injuries.
- (2) That information must be in the form and manner required by the Chief Inspector.
- (3) An operator who receives such a requirement must comply with it.

206 Workplace injury reports

- (1) The operator of a coal operation must, as soon as practicable, but in any case within 30 days after the end of each quarter ending 31 March, 30 June, 30 September and 31 December, report the information required by this clause to the Chief Inspector in the Gazetted form and manner.
- (2) The information required by this clause for each quarter is the following:
- (a) the total number of workplace injuries at the coal operation during the quarter,
 - (b) the number of those injuries that were to employees,
 - (c) the number of those injuries that were to contractors,
 - (d) the ratio of injuries to employees to injuries to contractors,
 - (e) the total number of hours worked by employees during the quarter,
 - (f) the total number of hours worked by contractors during the quarter,
 - (g) the starting and finishing times of each shift worked at the coal operation,
 - (h) any other Gazetted information.

Division 2 Other matters**207 Retention of records**

A record required to be kept by the Act or this Regulation must be retained for at least 5 years after it is made, except for a record that is required, by a particular provision of the Act or this Regulation, to be retained for a different period.

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Clause 208 Coal Mine Health and Safety Regulation 2006

Part 10 Miscellaneous

208 Government official's advice

An advice given by a government official under section 150 of the Act must be in writing.

209 Decisions reviewable by the Administrative Decisions Tribunal

- (1) For the purposes of section 196 (1) of the Act, a person is authorised to apply to the Administrative Decisions Tribunal for a review of a decision of any of the following classes:
 - (a) a decision by the Chief Inspector under section 17 of the Act to reject the nomination of an operator,
 - (b) a decision by the Minister under section 138 (1) (h) of the Act to declare that a person's competence is not recognised,
 - (c) a decision by the Chief Inspector under section 161 of the Act to disqualify a site check inspector,
 - (d) a decision by the Chief Inspector under clause 154 to refuse to grant a licence,
 - (e) a decision by the Chief Inspector under clause 158 to amend a condition of a licence,
 - (f) a decision by the Chief Inspector under clause 160 to suspend or cancel a licence,
 - (g) a decision by the Minister under clause 174 to suspend or cancel a certificate of competence,
 - (h) a decision by the Chief Inspector under Part 9 to dismiss an application for an exemption, to impose a condition on an exemption or to withdraw an exemption.
- (2) The Chief Inspector is taken, for the purposes of an application for review by the Administrative Decisions Tribunal, to have refused to grant a licence, if the Chief Inspector does not determine an application for a licence within 3 months after the making of the application.

210 Determination of fees and charges by the Minister

For the purposes of section 219 (1) (f) of the Act, the Minister is authorised to determine the fees and charges payable for the following purposes in connection with the Act:

- (a) the collection of samples of roadway dust by an explosion suppression officer under clause 96,
- (b) the processing of a notification under Part 3,
- (c) the lodging of an application for a licence under Part 5,

- (d) the grant of a licence under Part 5,
- (e) the re-issue or renewal of a licence under Part 5.

211 Chief Inspector may publish material relating to safety or health

- (1) The Chief Inspector may, in the interests of promoting safety or health, publish material arising from:
 - (a) investigations or other activities undertaken by inspectors or mine safety officers, or
 - (b) information provided by individuals or organisations associated with coal operations, or
 - (c) information provided by or acquired from organisations associated with safety or health.
- (2) Any requirements of the Chief Inspector, either generally or in a particular case, and communicated to an operator in regard to informing any specified class of people working at coal operations of any material relating to safety or health (whether published by the Chief Inspector or otherwise) must be complied with by the operator.

212 Availability of Gazetted matters

The Chief Inspector must ensure that any notice published in the Gazette for the purposes of this Regulation is available for inspection, free of charge, at each office of the Department of Primary Industries.

213 Penalty for contravention of regulation

A person who contravenes a provision of this Regulation is guilty of an offence and is liable to a penalty not exceeding 250 penalty units.

214 Savings and transitional provisions

Schedule 2 has effect.

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Coal Mine Health and Safety Regulation 2006

Schedule 1 Places to which Act does not apply

Schedule 1 Places to which Act does not apply

(Clause 6)

1 Colliery holdings

Places of work that are within a colliery holding but outside a coal operation, being places of work at which the work carried out is not any of the following activities:

- (a) mining,
- (b) the construction, maintenance or use (in or in connection with mining) of:
 - (i) any building or mining plant, or
 - (ii) any road, railway, tramway, bridge or jetty, or
 - (iii) any reservoir, dam, drain or water race, or
 - (iv) any cable, conveyor, pipeline, telephone line or signalling system, or
 - (v) any bin, magazine or fuel chute, or
 - (vi) any pit, shaft, drive, level, drift, excavation or work, or
 - (vii) any other structure,
- (c) the stockpiling or depositing of overburden, coal or waste material from a coal operation,
- (d) the storage of fuel, machinery, timber or plant for use in or in connection with mining,
- (e) the generation or transmission of electricity for use in or in connection with mining,
- (f) the construction, maintenance and use (in or in connection with mining) of any drill hole or shaft for:
 - (i) the drainage of gas, or
 - (ii) the drainage or conveyance of water, or
 - (iii) ventilation, or
 - (iv) the conveyance of electricity, or
 - (v) communications, or
 - (vi) emergency access to underground workings,
- (g) transport or travel of any person or thing in connection with any activity referred to in paragraph (a)–(f), regardless of whether the activity is carried out inside or outside a coal operation,

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- (h) carrying out works on the surface of land for the purpose of testing the coal bearing qualities of the land, which may include works on the surface to remove samples from the land for that purpose,
 - (i) drilling from the surface for a mining purpose in connection with the mining of coal or for the purpose of discovering or proving the existence of coal,
 - (j) restoring or rehabilitating a site where mining has occurred or where any of the activities referred to in paragraph (b) have occurred,
 - (k) preparing a site where mining will occur or where any of the activities referred to in paragraph (b) will occur for a use referred to in that paragraph,
 - (l) drilling from the surface for the purpose of discovering or proving the presence of coal.

2 Abandoned coal operations

Places of work that are abandoned coal operations (or parts of abandoned coal operations), being places of work at which the work carried out is not of any of the following activities:

- (a) fencing, sealing, filling, maintenance or other work of a kind referred to in Division 2 of Part 6 of the Act,
- (b) restoring or rehabilitating the site of the abandoned coal operation or part.

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Coal Mine Health and Safety Regulation 2006

Schedule 2 Savings and transitional provisions

Schedule 2 Savings and transitional provisions

(Clause 214)

1 Owner taken to be operator for initial period

- (1) A person who was the owner of a mine for the purposes of the *Coal Mines Regulation Act 1982* immediately before the repeal of that Act is taken to have been nominated as the operator of the corresponding coal operation until a new operator is nominated under section 17 of the *Coal Mine Health and Safety Act 2002* or until a date that is 2 months after the commencement of this clause, whichever occurs first.
- (2) If, within 2 months after the commencement of this clause, the nomination of the operator of a coal operation is rejected for the first time, the person who was the owner of a mine for the purposes of the *Coal Mines Regulation Act 1982* immediately before the repeal of that Act is taken to have been nominated as the operator of the coal operation until a further operator is nominated under section 17 of the *Coal Mine Health and Safety Act 2002* or until a date that is 2 months after the commencement of this clause, whichever occurs first.

2 Transitional provisions relating to certain obligations

- (1) A legal obligation under sections 21–23, 28, 38, 41–43, 46, 51, 52 and 72–77 of the Act does not arise until 1 July 2007.
- (2) A person is not liable for an offence under sections 21–23, 28, 38, 41–43, 46, 51, 52 and 72–77 of the Act in respect of any act or omission that occurs before 1 July 2007.
- (3) However, subclause (2) does not apply to any failure to comply with the requirements of sections 21–23, 28, 38, 41–43, 46, 51, 52 and 72–77 of the Act that continues after 1 July 2007.

3 Saving of training obligations

Despite its repeal, Division 8 of Part 4 of the *Coal Mines Regulation Act 1982* continues to apply to coal operations until 1 July 2007.

4 Saving of certain other obligations

- (1) Despite their repeal, clauses 35–37, 71, 126–132, 134–143 and 171–180 of the *Coal Mines (Underground) Regulation 1999* continue to apply to coal operations until 1 July 2007.
- (2) Despite their repeal, clauses 11, 19 and 20 of the *Coal Mines (Open Cut) Regulation 1999* continue to apply to coal operations until 1 July 2007.

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- (3) Despite their repeal, clauses 9, 26 and 28–33 of the *Coal Mines (General) Regulation 1999* continue to apply to coal operations until 1 July 2007.

5 Saving of appointments as inspector

A person who held appointment as an inspector under section 47A of the *Occupational Health and Safety Act 2000* immediately before the repeal of the *Coal Mines Regulation Act 1982* is taken to be an inspector. Any limitation of functions in the person's instrument of appointment under section 47A of the *Occupational Health and Safety Act 2000* applies to the person's status as an inspector.

6 Phasing-in of management structures

For the purposes of clause 7 of Schedule 3 to the Act, any management structure duly developed under clause 6 of the *Coal Mines (Underground) Regulation 1999* and in force immediately before the repeal of that Regulation is acceptable, for the period of 6 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 37 of the *Coal Mine Health and Safety Act 2002* to prepare a management structure.

7 Phasing-in of inspection programs

For the purposes of clause 7 of Schedule 3 to the Act, any inspection system duly developed for a mine under clause 6 of the *Coal Mines (Open Cut) Regulation 1999*, or any mine inspection system developed for a mine under clause 16 of the *Coal Mines (Underground) Regulation 1999*, and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is acceptable, for the period of 6 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by clauses 13 (a) and 15 of this Regulation in respect of the corresponding coal operation.

8 Phasing-in of withdrawal conditions

For the purposes of clause 7 of Schedule 3 to the Act, any withdrawal condition duly developed under clause 9 of the *Coal Mines (Underground) Regulation 1999* and in force immediately before the repeal of that Regulation is acceptable, for the period of 6 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by clause 13 (g) of this Regulation.

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Coal Mine Health and Safety Regulation 2006

Schedule 2 Savings and transitional provisions

9 Phasing-in of major hazard management plans

For the purposes of clause 7 of Schedule 3 to the Act:

- (a) any transport rules duly developed under section 101 (2) (b) of the *Coal Mines Regulation Act 1982*, and any tipping rules developed under section 130 of that Act, and in force immediately before the repeal of that Act are acceptable, for the period of 12 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 35 of the *Coal Mine Health and Safety Act 2002* and clause 30 of this Regulation, and
- (b) any transport rules duly developed under clause 60 of the *Coal Mines (Underground) Regulation 1999*, and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* are acceptable, for the period of 12 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 35 of the *Coal Mine Health and Safety Act 2002* and clause 31 of this Regulation to prepare an underground transport management plan in relation to the hazard of transport and haulage, in particular from transport that is operated in the underground parts of the coal operation and locomotives that are operated on the surface part of a mine where the surface rail system operates jointly with the underground system, and
- (c) any support rules duly developed under section 102 of the *Coal Mines Regulation Act 1982*, or any support rules developed under clause 48 of the *Coal Mines (Underground) Regulation 1999*, and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* are acceptable, for the period of 6 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 35 of the *Coal Mine Health and Safety Act 2002* and clause 32 of this Regulation, and
- (d) any inrush prevention system duly developed under clause 40 of the *Coal Mines (Underground) Regulation 1999*, and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is acceptable, for the period of 6 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 35 of the *Coal Mine Health and Safety Act 2002* and clause 33 of this Regulation to prepare an inrush management plan in relation to the major hazard of inrush into the underground parts of the coal operation of water or other fluid material, or any material that becomes fluid when wet or inflammable or noxious gases, and

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- (e) any shotfiring and explosives system duly developed under clause 25 of the *Coal Mines (Open Cut) Regulation 1999* or clause 154 of the *Coal Mines (Underground) Regulation 1999*, and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is acceptable, for the period of 12 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 35 of the *Coal Mine Health and Safety Act 2002* and clause 37 of this Regulation, and
 - (f) any airborne dust rules duly developed under clause 31 of the *Coal Mines (Open Cut) Regulation 1999* or clause 163 of the *Coal Mines (Underground) Regulation 1999*, and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* are acceptable, for the period of 12 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 35 of the *Coal Mine Health and Safety Act 2002* and clause 38 of this Regulation, and
 - (g) any explosion suppression system duly developed under clause 172 of the *Coal Mines (Underground) Regulation 1999* and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is acceptable, for the period of 6 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by section 35 of the *Coal Mine Health and Safety Act 2002* and clause 37 of this Regulation.

10 Phasing-in of escape and rescue plan

For the purposes of clause 7 of Schedule 3 to the Act any egress plan duly developed under clause 107 of the *Coal Mines (Underground) Regulation 1999* and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is acceptable, for the period of 6 months commencing on the commencement of this clause (unless sooner replaced), as fulfilling the requirement imposed by clause 47 of this Regulation.

11 Saving of certain notices

A notice issued under clause 128 of the *Coal Mines (Underground) Regulation 1999* and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is taken to be a direction issued under clause 18 (l) of this Regulation.

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Coal Mine Health and Safety Regulation 2006

Schedule 2 Savings and transitional provisions

12 Saving of appointments to operate transport

A person appointed to operate transport at a mine under the *Coal Mines Regulation Act 1982*, and whose appointment has not been revoked, is to be taken to be appointed to operate the same type of transport at the corresponding coal operation.

13 Saving of certain approvals of workshops

- (1) An approval for a workshop issued under clause 146 (1) of the *Coal Mines (Underground) Regulation 1999* and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is, for 12 months after the commencement of this clause, taken to be a licence for that purpose issued under Part 5 of this Regulation subject to the same conditions as to which it was approved.
- (2) An approval may be varied, suspended or cancelled in accordance with Part 5 of this Regulation.

14 Saving of certain approvals of facilities

- (1) An approval for a facility issued under clause 146 (2) of the *Coal Mines (Underground) Regulation 1999* and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is, for 12 months after the commencement of this clause, taken to be a licence for that purpose issued under Part 5 of this Regulation, subject to the same conditions as to which it was approved.
- (2) An approval may be varied, suspended or cancelled in accordance with Part 5 of this Regulation.

15 Saving of certain accreditations

A person who was accredited under clause 175 (2) of the *Coal Mines (Underground) Regulation 1999* immediately before the repeal of the *Coal Mines Regulation Act 1982* is taken to have been licensed under Part 5 of this Regulation to conduct audits.

16 Phasing-in of isolation arrangements

For the purposes of clause 7 of Schedule 3 to the Act, any isolation procedures duly developed under clause 27 of the *Coal Mines (General) Regulation 1999* and in force immediately before the repeal of the *Coal Mines Regulation Act 1982* is acceptable as fulfilling the requirement imposed by clause 83 of this Regulation to prepare isolation arrangements for 6 months, unless earlier amended or replaced.

17 Saving related to high risk activity

For the purposes of section 53 (2) of the Act, an activity prescribed as a high risk activity by clause 49 that had been legally commenced prior to the commencement of Subdivision 6 of Division 2 of Part 5 of the Act is not subject to Subdivision 6 of Division 2 of Part 5 of the Act for as long as the approval for that activity under section 138 of the *Coal Mines Regulation Act 1982* is taken to continue by virtue of clause 11 of Schedule 3 to the Act (as modified by clause 88).

18 Saving of certain notices

Any notice under section 5 of the *Coal Mines Regulation Act 1982* in force immediately before the repeal of that Act, is taken to have been made under section 8 (3) (b) of the Act.

19 Saving of specifications

Any matter specified under the *Coal Mines Regulation Act 1982* or under any regulations made under that Act is taken to have been Gazetted under this Regulation under the provision that, in the opinion of the Chief Inspector, is the equivalent provision.

20 Saving related to certain approvals

- (1) Any approval in force under section 138 of the *Coal Mines Regulation Act 1982* immediately before the repeal of that Act is taken to have been given under clause 88, and may be varied or revoked, until 1 July 2008.
- (2) Clause 11 of Schedule 3 to the Act does not have effect until 1 July 2008, and is to be construed as if the words “immediately before the repeal of the former Act” read “immediately before 1 July 2008”.

21 Coal Services Pty Limited

Coal Services Pty Limited is, for the purposes of this Regulation, taken to have been licensed to sample and analyse airborne dust under clauses 38 and 39. That licence is subject to variation or cancellation under this Regulation.

22 Departmental roadway dust examiners

A person appointed as a departmental roadway dust examiner under clause 181 of the *Coal Mines (Underground) Regulation 1999* and whose appointment was in force immediately before the commencement of this clause is taken to have been appointed an explosion suppression officer under clause 92.

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Coal Mine Health and Safety Regulation 2006

Schedule 2 Savings and transitional provisions

23 Collection of roadway dust samples

A person appointed to collect roadway dust samples under clause 183 of the *Coal Mines (Underground) Regulation 1999*, and whose appointment was in force immediately before the commencement of this clause, is, for a period of 5 years from the commencement of this clause, taken to have been appointed under clause 98.

BY AUTHORITY