



New South Wales

Mine Health and Safety Regulation 2007

under the

Mine Health and Safety Act 2004

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mine Health and Safety Act 2004*.

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

Explanatory note

The aim of the *Mine Health and Safety Act 2004* is to secure the health, safety and welfare of persons in connection with certain mines (but not coal operations). 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) the application of the Act to certain mines or places (clause 7),
- (b) the nomination of the operator of a mine and the provision of health and safety information for incoming operators (Part 2),
- (c) duties of the operator of a mine relating to health, safety and welfare at mines, including the following:
 - (i) the contents of the mine safety management plan for a mine (Division 1 of Part 3),
 - (ii) the contents of the management structure for a mine (Subdivision 1 of Division 2 of Part 3),
 - (iii) the appointment of a production manager for a mine (Subdivision 2 of Division 2 of Part 3),
 - (iv) the grant of production manager permits (Subdivision 3 of Division 2 of Part 3),
 - (v) duties regarding contractors (Division 3 of Part 3),
 - (vi) the contents of an emergency plan for a mine (which forms part of the mine safety management plan), the provision of means of escape and the preparation of escape and rescue plans for mines (Division 4 of Part 3),

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- (d) risk assessment under the *Occupational Health and Safety Act 2000*, including:
 - (i) the conduct of OH&S risk assessments in relation to hazards associated with ground instability, inrush, atmospheric contamination, mine shafts, conveyors, earth moving machinery, fire, explosives, electrical work and mine roads (Divisions 1 and 2 of Part 4), and
 - (ii) the documentation of such OH&S risk assessments (Division 3 of Part 4),
- (e) risk control measures, including:
 - (i) risk control measures for particular hazards, (Division 1 of Part 5), and
 - (ii) documentation of risk control measures (Division 3 of Part 5), and
 - (iii) controlled areas and waste materials (Division 4 of Part 5),
- (f) working arrangements for persons working at mines, including:
 - (i) hours of work (Division 1 of Part 6), and
 - (ii) fitness for work (Division 2 of Part 6), and
 - (iii) the minimum age for underground work (Division 3 of Part 6), and
 - (iv) health surveillance of persons at work (Division 4 of Part 6),
- (g) mine plans (Part 7),
- (h) competence standards for persons performing functions at mines, including:
 - (i) the specification of functions and of the evidence of competence required to perform those functions (Division 1 of Part 8), and
 - (ii) development of competence standards (Division 2 of Part 8), and
 - (iii) assessment of competence standards (Division 3 of Part 8), and
 - (iv) certificates of competence (Division 4 of Part 8), and
 - (v) maintenance of competence (Division 5 of Part 8), and
 - (vi) suspension and cancellation of certificates of competence (Division 6 of Part 8), and
 - (vii) restoration of certificates of competence (Division 7 of Part 8), and
 - (viii) declarations that a person's competence is not recognised (Division 8 of Part 8), and
 - (ix) the establishment of a register of certificates of competence and the imposition of fees (Division 9 of Part 8),
- (i) provisions relating to the Metalliferous Mines and Extractive Industries Competence Board, including:
 - (i) the constitution of the Board (Division 1 of Part 9), and
 - (ii) committees of the Board (Division 2 of Part 9), and
 - (iii) the procedure of the Board (Division 3 of Part 9),
- (j) notifications, records and reporting, including:
 - (i) notification of drilling operations and certain operations and activities (Division 1 of Part 10), and
 - (ii) notification of certain incidents (Division 2 of Part 10), and
 - (iii) inquiries by Boards of Inquiry (Division 3 of Part 10), and
 - (iv) the keeping of records and reporting (Division 4 of Part 10),

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- (k) miscellaneous matters, including:
 - (i) the Chief Inspector's powers where a mine is dangerous (Division 1 of Part 11), and
 - (ii) the oversight of mines (Division 2 of Part 11), and
 - (iii) decisions reviewable by the Administrative Decisions Tribunal (Division 3 of Part 11), and
 - (iv) exemptions from provisions of the Regulation (Division 4 of Part 11), and
 - (v) fees and charges and other matters (Division 5 of Part 11),
- (l) savings and transitional provisions (Part 12).

This Regulation refers to the following standards:

- (a) Australian Standard AS 3000:2000, *Electrical installations* (known as the Australian/New Zealand Wiring Rules),
- (b) Australian Standard AS 3007.1—2004, *Electrical installations—Surface mines and associated processing plant—Scope and definitions*,
- (c) Australian Standard AS 3007.2—2004, *Electrical installations—Surface mines and associated processing plant—General protection requirements*,
- (d) Australian Standard AS 3007.3—2004, *Electrical installations—Surface mines and associated processing plant—General requirements for equipment and ancillaries*,
- (e) Australian Standard AS 3007.4—2004, *Electrical installations—Surface mines and associated processing plant—Additional requirements for specific applications*,
- (f) Australian Standard AS 3007.5—2004, *Electrical installations—Surface mines and associated processing plant—Operating requirements*,
- (g) Australian Standard AS 1885.1—1990, *Measurement of occupational health and safety performance—Describing and reporting occupational injuries and disease*.

This Regulation is made under the *Mine Health and Safety Act 2004*, including section 165 (the general regulation-making power) and other sections referred to in the Regulation.

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Clause 1 Mine Health and Safety Regulation 2007

Part 1 Preliminary

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under the

Mine Health and Safety Act 2004

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Mine Health and Safety Regulation 2007*.

2 Commencement

- (1) This Regulation (except for clauses 178 and 179) commences on 1 September 2008.
- (2) Clauses 178 and 179 commence on 21 December 2007.

3 Definitions

- (1) In this Regulation:

airblast means a significant overpressure of air forced out of a large void at high velocity as a result of the collapse of a mass of rock or material.

AS 3007 means:

- (a) Australian Standard AS 3007.1—2004, *Electrical installations—Surface mines and associated processing plant—Scope and definitions*, and
- (b) Australian Standard AS 3007.2—2004, *Electrical installations—Surface mines and associated processing plant—General protection requirements*, and
- (c) Australian Standard AS 3007.3—2004, *Electrical installations—Surface mines and associated processing plant—General requirements for equipment and ancillaries*, and
- (d) Australian Standard AS 3007.4—2004, *Electrical installations—Surface mines and associated processing plant—Additional requirements for specific applications*, and
- (e) Australian Standard AS 3007.5—2004, *Electrical installations—Surface mines and associated processing plant—Operating requirements*.

AS/NZS 3000 means Australian Standard AS 3000:2000, *Electrical installations* (known as the Australian/New Zealand Wiring Rules).

Chairperson means the Chairperson of the Board.

Deputy Chairperson means the Deputy Chairperson of the Board.

electrical article has the same meaning as it has in the *Electricity (Consumer Safety) Act 2004*.

electrical installation has the same meaning as it has in the *Electricity (Consumer Safety) Act 2004*, except that it extends to electrical equipment in or about a mine.

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

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

extraction means the removal of material for the recovery of minerals or quarry products, and includes any activity that is ancillary to, or connected with, such removal.

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

ground includes the roof, floor and walls of excavations in a mine.

medical treatment means the carrying out, by or under the supervision of a registered medical practitioner, of:

- (a) a surgical operation, or
- (b) the administration of medication, or
- (c) any other medical procedure, including an X-ray or other diagnostic test, performed to determine the nature or extent of an injury or the treatment required for an injury.

member means any member of the Board.

mine plan, in relation to a mine, includes sections of the workings of the mine (including correct copies or tracings of any original section) and correct copies or tracings of any original plan and sections.

OH&S legislation means the *Occupational Health and Safety Act 2000* and the regulations in force under that Act.

OH&S risk assessment means an assessment of the risk of harm to the health or safety of persons required to be carried out under the OH&S legislation.

prescribed hazard means a hazard associated with any of the following:

- (a) ground instability,
- (b) inrush,
- (c) atmospheric contamination,
- (d) shaft design, construction and use,

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Part 1 Preliminary

- (e) the use of conveyors and earth moving machinery,
- (f) fire and explosion,
- (g) the handling of explosives,
- (h) electricity,
- (i) mine road design, construction and use.

production manager for a mine means the person appointed under clause 16 in relation to the mine.

production manager permit means a permit granted under clause 19.

qualified electrical engineer means a person who holds the evidence of competence required by clause 109 to be a qualified electrical engineer.

qualified electrical tradesperson means a person who holds the evidence of competence required by clause 109 to be a qualified electrical tradesperson.

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

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

Note. On the commencement of this clause, the relevant directions are those under clause 4 (4) of the *Surveying Regulation 2006*.

the Act means the *Mine Health and Safety Act 2004*.

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 event giving rise to 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.
- (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 109.
 - (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 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 coordinated manner.

6 Regulation to be read in conjunction with the OH&S legislation

The obligations to assess and eliminate or control risk imposed by this Regulation are in addition to and do not derogate from the obligations of an employer under the OH&S legislation.

Note. The OH&S legislation imposes obligations on employers to identify foreseeable hazards that may arise from the conduct of the employer's undertaking, to assess the risks of those hazards and to eliminate the risks or, if not reasonably practicable to do so, to control the risks.

7 Act not to apply to certain mines or places

- (1) The class consisting of mines:
 - (a) that are a place of work, and
 - (b) in relation to which a person has a right to mine arising through a mining title or other form of title or claim under the *Mining Act 1992* or otherwise, and
 - (c) that are under the ownership or control of a mine holder or an operator, and

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Part 1 Preliminary

- (d) where no mining activity or operation, or mining related activity or operation, is taking place,
is prescribed under section 7 (1) (a) of the Act.
- (2) Despite subclause (1), a part of a mine that is taken to be part of the mine by virtue of section 6 (2) of the Act is not prescribed under section 7 (1) (a) of the Act.

Part 2 Operator of a mine

8 Nomination of operator by mine holder

- (1) For the purposes of section 22 (5) of the Act, if there is only one separate and distinct mine at a place, the nomination of the operator of the mine must include the following information:
- (a) the name of the mine,
 - (b) the location and postal address of the mine,
 - (c) the name of the mine holder,
 - (d) the basis on which the mine holder claims to be the mine holder (including copies of any document establishing the mine holder's right to mine or to carry out mining purposes),
 - (e) whether there is, to the knowledge of the mine holder, any other mine holder for the mine and, if so, the name and contact details of that other mine holder and the basis of the other mine holder's right to mine or to carry out mining purposes,
 - (f) the name of the person nominated as operator of the mine,
 - (g) the nominated operator's Australian Business Number (ABN),
 - (h) details of the relationship between the nominated operator of the mine and the mine holder,
 - (i) the identity and contact details of the primary contact at the mine,
 - (j) the identity and contact details of an alternative contact at the mine,
 - (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 mine, including, but not limited to, the following particulars:
 - (i) on what basis and to what extent, the nominated operator has day to day control of the mine,
 - (ii) the aspects and proportion, if any, of the day to day operations of the mine that are not under the nominated operator's control,
- and must be signed by the mine holder, or by someone authorised by the mine holder to sign on the mine holder's behalf, and must indicate the position held by the person who signs.
- (2) For the purposes of section 22 (5) of the Act, if there is more than one separate and distinct mine at a place, the nomination of the operator of each mine must include:
- (a) a detailed explanation of the basis on which each mine is considered a separate and distinct mine, and

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Clause 9 Mine Health and Safety Regulation 2007

Part 2 Operator of a mine

(b) in respect of each mine—the information required by subclause (1),

and must be signed by the mine holder, or by someone authorised by the mine holder to sign on the mine holder's behalf, and must indicate the position held by the person who signs.

9 Changes in details provided in nomination

- (1) If a nomination has been made under section 22 of the Act and, at some later time, there is a material change in the details included in that nomination (including a change in the mine holder's name but excluding a change of the person nominated as operator of the mine), the mine 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 mine, the mine holder is required by section 22 (10) of the Act to nominate a new operator in accordance with section 22.

- (2) For the purposes of section 22 (8) (b) of the Act, the Chief Inspector may reject a nomination under section 22 having regard to any change reported to the Chief Inspector under this clause within 28 days after the Chief Inspector receives the nomination.

10 Keeping of record of operator

- (1) A mine holder must ensure that a record of the identity of the operator of the mine is readily available.
- (2) That record must contain at least the following information:
- (a) the name of the mine,
 - (b) the name of the operator of the mine,
 - (c) the operator's Australian Business Number (ABN),
 - (d) the identity and contact details of the primary contact at the mine,
 - (e) the identity and contact details of an alternative contact at the mine.

11 Person declared as operator by Chief Inspector to provide information

A person who has been declared the operator of a mine or class of mines under section 23 of the Act must, as soon as practicable after being so declared, give the Chief Inspector the information Gazetted.

12 Mine holder to give operator health and safety information

The following health and safety information is prescribed as the information that, under section 24 of the Act, a mine holder must give the operator of a mine:

- (a) any mine safety management plan prepared for the mine,
- (b) any relevant systems, policies, program, plans and procedures required under the Act or this Regulation for the mine,
- (c) any relevant mine plans for the mine (including those that can be required to be provided to a government official under section 137 of the Act),
- (d) any records for the mine that are required to be kept under the Act, or that were required to be kept under the *Mines Inspection Act 1901* in the 5 years immediately before its repeal, being records that are no more than 5 years old,
- (e) any geological or geotechnical information concerning the mine,
- (f) any engineering assessments concerning the mine,
- (g) all other information available to the mine holder that may reasonably be relevant to the development and implementation of a mine safety management plan for the mine.

13 Duty of operator to review information

The operator of a mine must, as soon as practicable after receiving information supplied by a mine holder under section 24 of the Act, review that information.

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Part 3 Duties of operators relating to health, safety and welfare at mines

Part 3 Duties of operators relating to health, safety and welfare at mines

Note. Section 15 of the Act provides that it is to be read in conjunction with the OH&S legislation. That legislation 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. It also requires an employee, while at work, to take reasonable care for the health and safety of persons 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 mines.

The OH&S legislation 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. Section 146 of the Act imposes specific duties on the operator of a mine in relation to site check inspectors.

Division 1 Mine safety management plan

Note. Section 30 (2) of the Act requires a mine safety management plan for a mine to provide the basis for the identification of hazards, and of the assessment of risks arising from those hazards, by the operator of the mine, for the development of controls for those risks and for the reliable implementation of those controls.

Section 30 (3) of the Act specifies what must be included in a mine safety management plan, namely the document that sets out the management structure of the mine, the contractor management plan for the mine and the emergency plan for the mine. Section 30 (3) (d) permits the regulations to prescribe additional matters that must be included in a mine safety management plan. This Division prescribes such matters.

The OH&S legislation imposes additional duties relating to health, safety and welfare at work on employers and others. Those duties apply to work at mines.

14 Additional contents of mine safety management plan

For the purposes of section 30 (3) (d) of the Act, the mine safety management plan for a mine must include the following:

- (a) an occupational health and safety policy that includes the occupational safety and health objectives for the mine,
- (b) the arrangements for the safe use of plant pursuant to the OH&S legislation, including the acquisition of fit-for-purpose plant and its commissioning, operation and maintenance,
- (c) the arrangements for hazard identification, OH&S risk assessment and risk control at the mine so as to meet the requirements of the OH&S legislation, including (but not limited to) the conduct of regular site inspections,
- (d) the arrangements for appropriate instruction, training and provision of information for persons so as to meet the requirements of the OH&S legislation relating to the provision of instruction, training and information,
- (e) the arrangements for supervision at the mine,

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- (f) the arrangements for communication at the mine, including (but not limited to):
 - (i) the exchange of information between shifts regarding hazards that may affect the health and safety of persons at the mine, and
 - (ii) a system that enables effective communication between supervisors and other persons for the purpose of receiving instructions in the event of imminent risk, and
 - (iii) a system that provides for the recording of the name of any person who is underground at a mine and their probable location from time to time, and
 - (iv) a voice communication system from the surface parts of a mine to critical infrastructure locations in the underground parts at the mine,
 - (g) any site safety rules, with the detail of arrangements for ensuring that all persons at the site, whether employees, contractors, suppliers or visitors, are informed of the rules,
 - (h) the arrangements for document control and record keeping, being arrangements that include:
 - (i) the use, distribution and control of documents required to be kept by the Act, this Regulation or the OH&S legislation, and
 - (ii) the instruction of persons in the use, distribution and control of such documents.

Division 2 Management structure

Note. This Division requires the management structure for a mine to include a production manager and provides for the appointment of a production manager. Section 108 of the Act prohibits the operator of a mine from employing a person at the mine to perform a specified function unless the person holds specified evidence of competence to perform that function. Clause 109 of this Regulation specifies certain functions, including the function of production manager and the evidence of competence required by production managers.

Subdivision 1 Contents of management structure

15 Management structure to include production manager

- (1) Without limiting section 35 (2) of the Act, the management structure for a mine at which any extraction is occurring must include the position of production manager.
- (2) This clause does not apply to an opal mine.

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Clause 16 Mine Health and Safety Regulation 2007

Part 3 Duties of operators relating to health, safety and welfare at mines

Subdivision 2 Appointment of production manager

16 Production manager to be appointed

- (1) The operator of a mine must not undertake, or allow any other person to undertake, any extraction unless a person competent to be a production manager has been appointed as the production manager for the mine to supervise the extraction.
- (2) This clause does not apply to an opal mine.

17 Chief Inspector may require production manager to be appointed

- (1) This clause applies if the Chief Inspector is of the opinion that, having regard to the location of the mine, the complexity of operations at the mine or the nature of the material mined, special knowledge or skill is required to supervise the production operations at the mine.
- (2) The Chief Inspector may, by notice in writing served on the operator of the mine, require a production manager with specified knowledge or skills to be appointed for the mine.
- (3) The operator of a mine must comply with any such requirement.

18 Operator to inform Chief Inspector of appointment of production manager

The operator of a mine must notify the Chief Inspector in writing of the appointment of a production manager of the mine and of the details of the evidence of competence of the production manager as soon as possible after the appointment is made.

Subdivision 3 Production manager permits

Note. Section 108 of the Act provides that the operator of a mine must not employ a person at the mine to perform a specified function unless the person holds specified evidence of competence to perform that function. Clause 109 of this Regulation specifies certain functions of a production manager and the evidence of competence required to perform those functions. The specified evidence of competence for the specified function of a production manager for a mine includes a production manager permit. This Subdivision makes provision for such permits.

19 Chief Inspector may grant production manager permit

On application in writing to the Chief Inspector and payment of such fee as the Minister may approve, the Chief Inspector may grant a production manager permit.

20 Application for production manager permit

An application for a production manager permit:

- (a) must specify the mine to which the permit is to relate, and
- (b) must be in a form that contains any particulars or information required by the Chief Inspector, and
- (c) must be given to the Chief Inspector.

21 Eligibility for production manager permit

A person is eligible for a production manager permit if the Chief Inspector is satisfied:

- (a) that the person has had sufficient experience to supervise the production operations at the mine concerned, and
- (b) in the case of an application for a permit relating to a mine at which more than 20 persons are employed:
 - (i) that the person has sufficient knowledge or skill to supervise the production operations at the mine, or
 - (ii) that minimal knowledge or skill is required to supervise the production operations at the mine, having regard to the location of the mine, or the nature of the material mined, or
 - (iii) that the person will shortly sit for the requisite examination for the grant of a certificate of competence as production manager.

22 Determination of application

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

23 Notice of refusal

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

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Clause 24 Mine Health and Safety Regulation 2007

Part 3 Duties of operators relating to health, safety and welfare at mines

24 Amendment of conditions of production manager permit

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

25 Suspension and cancellation of production manager permits

- (1) The Chief Inspector may suspend or cancel a production manager permit if satisfied that the holder of the permit:
 - (a) is no longer competent to perform the functions authorised by the permit, or
 - (b) can no longer be relied on to perform the functions authorised by the permit without endangering the health and safety of the holder or any other person, or
 - (c) has contravened a condition of the permit, or
 - (d) has made a statement, in or in connection with an application for the permit, that the holder knew, when the statement was made, to be false or misleading in a material particular.
- (2) Before suspending or cancelling a production manager permit, the Chief Inspector:
 - (a) must cause notice of the proposed suspension or cancellation to be given to the holder of the permit, and
 - (b) must give the holder of the permit 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 production manager permit takes effect on the date on which written notice of the suspension or cancellation is given to the holder of the permit.

26 Production manager permit to be returned to Chief Inspector

The holder of a production manager permit must return the permit to the Chief Inspector:

- (a) within 4 weeks after ceasing to perform the functions of a production manager at the mine in relation to which the permit was issued, and
- (b) within 4 weeks after receiving notice that any condition of the permit has been amended in accordance with clause 24, and
- (c) within such period as may be specified in the notice of cancellation under clause 25.

27 Replacement of lost, stolen or damaged production manager permit

- (1) The holder of a production manager permit that is lost, stolen or damaged may apply to the Chief Inspector for a duplicate permit.
- (2) The application:
 - (a) must be in writing, and
 - (b) must be accompanied by a declaration by the applicant explaining how, or the circumstances in which, the permit was lost, stolen or damaged.
- (3) The Chief Inspector may cause a duplicate permit to be issued if satisfied:
 - (a) as to the identity of the applicant, and
 - (b) that the applicant's permit has been lost, stolen or damaged.

28 Register of production manager permits

- (1) The Director-General is to establish, in the form that the Director-General considers appropriate, and maintain, a register of production manager permits.
- (2) The register is to contain the following information in relation to each permit:
 - (a) the full name of the holder of the permit,
 - (b) the date and place of birth of the holder of the permit,
 - (c) any conditions on the permit,
 - (d) the mine in relation of which the permit was granted.

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Clause 29 Mine Health and Safety Regulation 2007

Part 3 Duties of operators relating to health, safety and welfare at mines

Division 3 Duties regarding contractors

29 Content of contractor management plan

The following are prescribed as matters for which a contractor management plan for a mine must make provision under section 38 of the Act:

- (a) assessment of contractor health and safety policies, procedures, competence of persons, occupational health and safety performance and the extent to which plant is fit-for-purpose prior to engagement,
- (b) site induction of contractors, contractor employees and sub-contractors,
- (c) monitoring of contractor compliance with site health and safety requirements, including requirements imposed by the Act or this Regulation,
- (d) communication arrangements between the operator and contractors and appropriate consultation with the contractor's employees.

30 Application of Subdivision 4 of Division 2 of Part 5 of Act to contractors

- (1) For the purposes of section 169 (1) (a) of the Act, contractors who are not engaged in mining work, construction work or work in connection with mining work or construction work are specified as contractors in relation to whom Subdivision 4 of Division 2 of Part 5 of the Act does not create any duties.
- (2) Without limiting the types of contractors referred to in subclause (1), those contractors include:
 - (a) office equipment service contractors,
 - (b) office cleaning contractors,
 - (c) catering contractors.

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*.

31 Application of Division 6 of Part 5 of Act to contractors

For the purposes of section 169 (1) (b) of the Act, all contractors who are referred to in clause 30 are specified as contractors in relation to whom all of Division 6 of Part 5 of the Act does not apply.

Note. The result of this specification is that Division 6 (Duties of and in relation to contractors) of Part 5 of the Act does not apply to the relevant class of contractors: see section 169 (1) (b) of the Act.

Division 4 Emergency management

Note. An employer or self-employed person is required to make provision for safety in the event of an emergency under particular provisions of the OH&S legislation, as also are occupiers of premises where dangerous goods are stored and handled in large quantities.

32 Contents of emergency plan

- (1) For the purposes of section 44 of the Act, an emergency plan for a mine must address the following matters:
 - (a) the requirements for an employer to provide for emergencies made by the OH&S legislation,
 - (b) the mechanism for the warning of an emergency at the mine,
 - (c) the provision of resources, personnel and training for dealing with an emergency at the mine,
 - (d) suitable equipment to respond to an emergency,
 - (e) the impact and operation of the mine emergency plan with any emergency response plans prepared by emergency services organisations for the area in which the mine is located,
 - (f) first aid arrangements, including the provision of facilities and competent persons to provide first aid treatment at the mine,
 - (g) the conduct of emergency exercises to test the response capability of the mine for emergency scenarios,
 - (h) arrangements for the treatment of electric shock and burns and for the training of persons providing such treatment.
- (2) An emergency plan for an opal mine is not required to address the matters specified in subclause (1) (e)–(h).

33 Provision of means of escape

- (1) The operator of an underground mine must provide for safe egress of persons from underground parts of the mine through conditions of reduced visibility and unbreathable atmospheres (including escape devices and, where appropriate, adequately maintained self-rescuers).
- (2) Without limiting the generality of subclause (1), the operator of an underground mine must provide, wherever practicable, two exits from every underground mine, each of which is connected to separate means of egress to the surface.
- (3) This clause does not apply to an opal mine.

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Clause 34 Mine Health and Safety Regulation 2007

Part 3 Duties of operators relating to health, safety and welfare at mines

34 Escape and rescue plan

- (1) The operator of a mine must cause a plan (an *escape and rescue plan*) of the underground parts of the mine to be prepared to aid in the escape and rescue of persons underground.
- (2) The operator of a mine must ensure that copies of the escape and rescue plan are displayed in a prominent and secure position on the surface of the mine and at strategic places underground.
- (3) The operator:
 - (a) must cause the plan to be reviewed at least once every three months, and
 - (b) must cause the plan to be updated when it no longer accurately reflects the workings or circumstances of the mine.
- (4) The operator must so often as the copies of the plan that have been displayed in accordance with subclause (2) otherwise become outdated, defaced or destroyed, cause them to be replaced.

Part 4 OH&S risk assessments relating to prescribed hazards

Note. The regulations under the *Occupational Health and Safety Act 2000* require an employer to identify any foreseeable hazard that may arise from the conduct of the employer's undertaking and that has the potential to harm the health or safety of any employee of the employer or any other person legally at the employer's place of work and to assess the risk of harm to the health and safety of any employee of the employer, or any other person legally at the employer's place of work, or both, arising from any hazard so identified. This Part imposes additional requirements in relation to that risk assessment. Failure to comply with this Part constitutes an offence under this Regulation but not under the regulations made under the *Occupational Health and Safety Act 2000*.

Division 1 General considerations

35 General considerations

- (1) The operator of a mine must ensure that an OH&S risk assessment in relation to a prescribed hazard takes into account such of the following factors as are relevant to the hazard:
 - (a) the time, place and location of the hazard,
 - (b) work organisation relating to the hazard,
 - (c) work environment relating to the hazard,
 - (d) the skills and experience of persons dealing with the hazard,
 - (e) the age of persons dealing with the hazard,
 - (f) special needs (temporary or permanent) relevant to the hazard,
 - (g) any other factors considered relevant by the operator, by any other employer at the mine, by any employee of the operator or such an employer or by any representative of any such employee on health and safety issues.
- (2) This clause does not limit the operation of this Part or of the OH&S legislation.

Division 2 Particular considerations

36 Ground instability

The operator of a mine must ensure that, in assessing risks associated with any unplanned falls of any rock, ore or other substances at the mine, the OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) geological and geotechnical conditions,
- (b) any subsidence at or outside the mine,

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Part 4 OH&S risk assessments relating to prescribed hazards

- (c) any potential for airblasts,
- (d) adequacy of installed ground support.

37 Inrush

The operator of a mine must ensure that, in assessing risks associated with any possible sudden and unplanned entry of water, gas, rock or other substances into the underground workings of the mine, the OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) the location of other workings and the accuracy of any plans of other workings,
- (b) the strength of any ground between workings,
- (c) the possibility of accumulation of hazardous water, gas, rock or other substances.

38 Shaft design, construction and use

The operator of a mine must ensure that, in assessing risks associated with shafts and winding systems, the OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) the prevention of falls of persons, plant, substances and objects,
- (b) the prevention of unintentional movement of plant,
- (c) the prevention of shaft fires.

39 Use of conveyors and earth moving machinery

The operator of a mine must ensure that, in assessing risks associated with conveyors and earth moving machinery, the OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) the conditions under which plant is used, including conformance to design parameters and interaction between heavy and light mobile plant,
- (b) the failure of systems that are critical to safety,
- (c) the risk of fire or explosion and the means available for the prevention, detection and suppression of fires,
- (d) the risk of contact of earth moving machinery with overhead structures.

40 Fire and explosion

The operator of a mine must ensure that, in assessing risks associated with any unintended fire or explosion in an underground mine, the

OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) the presence of combustible ore, sulphide dust or flammable gas,
- (b) the potential source of fire in the mine,
- (c) the type and placement of fire fighting equipment in the mine,
- (d) the type and placement of remote monitoring systems to enable early detection of fire in the mine.

41 Handling of explosives

The operator of a mine must ensure that, in assessing risks associated with the handling of explosives at the mine, the OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) the loading and stemming of blast holes,
- (b) the connection of initiation systems,
- (c) exclusion zones,
- (d) dealing with misfires,
- (e) the ignition of explosives or explosive precursors by an electric charge,
- (f) the security of explosives and explosive precursors.

42 Electricity

- (1) The operator of a mine must ensure that, in assessing risks associated with the use of electricity, the OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) the operation of high voltage electrical installations throughout their life cycle,
- (b) injury to people from sources of electrical energy,
- (c) gas or dust explosions and uncontrolled fires ignited by sources of electrical energy,
- (d) the unintended operation of plant,
- (e) the use of electrical safeguards with an appropriate safety integrity.

Note. The regulations under the *Occupational Health and Safety Act 2000* impose obligations relating to electrical safety requirements.

- (2) In this clause, *life cycle* includes design, manufacture, construction or installation, commissioning, operation, maintenance, repair, decommissioning and disposal.

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Clause 43 Mine Health and Safety Regulation 2007

Part 4 OH&S risk assessments relating to prescribed hazards

43 Mine road design and construction

The operator of a mine must ensure that, in assessing risks associated with the design and construction of roads on which mobile machinery is used and operated to transport persons or materials, the OH&S risk assessment for the mine takes into consideration, but is not limited to, the following:

- (a) the slope, cross-grade and width of the road,
- (b) the drainage system for the road,
- (c) the characteristics and the line of sight of the mobile plant that use, and operate on, the road.

Division 3 Documentation of OH&S risk assessments

Note. The documentation for measures to control risks for which OH&S risk assessments are carried out should include those relevant controls required under Part 5 (Risk controls) (see clause 73).

44 Preparation of documentation

- (1) The operator of a mine must ensure that the OH&S risk assessment relating to each prescribed hazard at the mine is documented.
- (2) That documentation must include a recording of the basis on which the level of risk from each prescribed hazard was determined.
- (3) The operator of a mine must ensure that the level of detail to be documented and recorded in an OH&S risk assessment relating to a prescribed hazard at the mine is commensurate with the degree of risk identified in relation to the relevant hazard.
- (4) This clause does not require documentation of the use of electricity except in relation to electrical installations and electrical work that are assessed to be high risk.

45 Keeping of documentation

- (1) The operator of a mine must ensure that the documentation relating to OH&S risk assessment for each prescribed hazard at the mine is kept for the period of the currency of the OH&S risk assessment.
- (2) However, records relating to OH&S risk assessment for the prescribed hazard of inrush must be kept for the life of the mine.

Part 5 Risk controls

Note. The regulations made under the *Occupational Health and Safety Act 2000* set out specific risk control measures for hazards that are common across all industries, including the mining industry.

The *Explosives Act 2003* sets out specific risk control measures.

Risk control measures at a mine may consist of a mix of measures, including:

- (a) those controls identified through the risk assessment required by the *Occupational Health and Safety Act 2000* and by Part 4 of this Regulation, and
- (b) any controls relating to the hazard which are required under this Part, and
- (c) any controls relating to the hazard that may be prescribed by the regulations under the *Occupational Health and Safety Act 2000*.

Division 1 Particular risk controls

Subdivision 1 Ground instability

46 Mine safety and stability

If there is a risk of unplanned fall of ground, ore or other substance that impedes passage, disrupts production or ventilation or involves a fall of ground support where persons could be present, the operator of the mine must ensure:

- (a) the ongoing monitoring of the condition of ground and the control for the stability of pit wall faces, berms and stockpiles, and
- (b) the training of persons at the mine in ground support principles, interpretation of ground support design, ground support installation and recognition and planned responses to indicators of change that may affect excavation stability in a mine.

Subdivision 2 Inrush

47 Control of risk of inrush

If there is a risk of any possible sudden and unplanned entry of water, gas, rock or other substances into workings of an underground mine resulting in harm to the safety and health of persons at the mine, the operator of the mine must ensure that:

- (a) mining surveyors are engaged to prepare plans of the mine and to obtain information as to the location of old workings, and

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Part 5 Risk controls

- (b) the resulting mine plans show:
 - (i) the location of all known old workings, and
 - (ii) the estimated location of all suspected old workings, relative to the location of all current workings and projected workings in the mine, and
- (c) exploratory bore holes are drilled in advance of the commencement of work in new areas in the mine or some other equivalent method is used to check on the location of old workings in the vicinity of the area in which work is to be carried out, and
- (d) monitoring equipment is installed in current working areas to provide a warning of risks associated with close proximity to other adjacent workings, including old workings, and
- (e) critical factors that may occur that affect either the probability or probable severity of the consequences of any inrush hazard are monitored, and
- (f) any records and plans relating to the control of the risk of inrush are kept for the life of the mine.

Subdivision 3 Atmosphere

Note. The regulations made under the *Occupational Health and Safety Act 2000* set out exposure standards for atmospheric contaminants, safe oxygen levels and monitoring, which also apply to mines, except in relation to provisions for ventilation that apply only to the surface part of the mine. This Subdivision applies to the underground parts of a mine.

48 Ventilation

The operator of an underground mine must ensure that the mine's ventilation system is designed, installed, maintained and monitored such that:

- (a) the ventilation circuits at the mine do not allow airflows to re-circulate, and
- (b) controls for the regulation of airflows are provided and maintained in operating condition, and
- (c) ventilating air does not pass through a number of work places if that is likely to result in the air becoming unfit for breathing, and
- (d) air exhausting from underground workings, and contaminated air at the surface of the mine, are not used for ventilating the underground workings, and
- (e) all major ventilating fans, air doors, brattices or other ventilating devices or controls in use at the mine are recorded on the mine plans, and

- (f) the measurement (and recording on the mine plans) of the direction, course, quality and quantity of air currents in the mine at intervals that will enable the air in the mine is adequately monitored, and
- (g) dead end openings at the mine are not worked unless adequate auxiliary ventilation is provided, and
- (h) persons are prevented from entering an enclosed or underground area at a mine unless and until the operator is satisfied that there is adequate ventilation in the area and, if the area is force ventilated, that the air in the area is not re-circulating.

49 Minimisation of pollutants from diesel plant

The operator of a mine must ensure that pollutants from diesel plant in underground parts of the mine are minimised as far as reasonably practicable.

Subdivision 4 Shaft design, construction and use**50 Safety and health**

The operator of a mine must ensure that any shafts at the mine are designed, constructed, installed, maintained, repaired and used so as to ensure the safety and health of persons at the mine.

51 Safe work method statements

The operator of a mine must ensure that safe work method statements are prepared for:

- (a) the construction of a shaft at the mine, or
- (b) the equipping, stripping, repair or maintenance of a shaft at the mine.

52 Shaft conveyances

The operator of a mine must ensure that the facilities for loading material, gear or equipment onto or into shaft conveyances at the mine are designed and operated so as to prevent spillage into the shaft.

Subdivision 5 Fire and explosion**53 Preventative measures**

The operator of a mine must ensure that appropriate measures are taken to prevent, detect and suppress fires and unintended explosions at the mine.

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Clause 54 Mine Health and Safety Regulation 2007

Part 5 Risk controls

Subdivision 6 Explosives

Note. A mine is subject to the risk control requirements of the *Explosives Act 2003* and the regulations made under that Act.

54 Definition of “handle”

In this Subdivision, *handle* has the same meaning as in the *Explosives Act 2003*.

55 Persons handling explosives must be licensed or authorised

The operator of a mine must ensure that explosives and explosive precursors handled at the mine are handled only by persons who are authorised under a licence under the *Explosives Act 2003* to handle explosives at the mine.

56 Register of persons handling explosives

The operator of a mine must ensure the keeping of a register identifying those persons currently at, or providing a service to, the mine who are authorised under a licence under the *Explosives Act 2003* to handle explosives or explosive precursors at the mine.

57 Coordination and communication with persons handling explosives

The operator of a mine must ensure that, with respect to the handling of explosives and explosive precursors at a mine, arrangements are coordinated between the operator and any person authorised under a licence under the *Explosives Act 2003* to handle explosives, so as to ensure the safety and security of such explosives.

Subdivision 7 Electrical safety

Note. Controllers of premises and employers have duties with respect to electrical safety under the regulations made under the *Occupational Health and Safety Act 2000*. This Subdivision supplements those duties with respect to mining workplaces.

58 Compliance with standards

The operator of a mine must ensure that electrical installations at the mine comply with the requirements of AS 3007 and AS/NZS 3000 applicable to those installations.

59 Safe work procedures

The operator of a mine must ensure that safe work procedures are developed and implemented in relation to the safe removal and restoration of electrical power at the mine.

60 Testing of electrical installation

- (1) The operator of a mine must ensure, prior to the initial application of power to circuitry at the mine, that testing is undertaken of electrical installation, to the standard specified by AS/NZS 3000.
- (2) The operator of a mine must ensure that tests undertaken under this clause are undertaken by, or supervised by, a person with prescribed electrical qualifications.
- (3) A person who undertakes testing under this clause must provide the operator of the mine with a certificate that the electrical work complies with AS/NZS 3000.
- (4) The operator of a mine must maintain a record of the results of the test undertaken under this clause.

61 Maintenance of electrical installations

The operator of a mine must ensure that electrical installations are maintained so as to ensure that:

- (a) the safe and satisfactory operation of the installation is not impaired by interference, damage, ageing or wear, and
- (b) the live parts of the installation remain properly insulated, or protected, against inadvertent contact with any person, and
- (c) the earthing system for the installation operates effectively, and
- (d) the installation is not used in a manner that exceeds the operating limits imposed by its design or installation, and
- (e) the installation does not become a significant potential cause of fire for the environment surrounding the installation.

62 Electrical cut-outs

The operator of a mine must ensure that electrical protection is provided on all electric circuits at the mine, to interrupt supply of electricity in the event of a fault.

63 Earth continuity protection

The operator of a mine must ensure that earth continuity protection is provided to interrupt the supply of electricity to mobile or portable plant supplied by a flexible trailing or reeling cable operating at 415V or above at the mine.

64 Prevention of connection in the event of earth fault

The operator of a mine must ensure the prevention of the connection of electrical power to mobile or portable electrical plant at the mine in the

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Part 5 Risk controls

event of an earth fault on a flexible trailing or reeling cable supplying the plant.

65 Effective earthing

The operator of a mine must ensure the provision of effective earthing at the mine, including the following:

- (a) the minimisation of risk from touch, transfer or step potential,
- (b) the prevention of the effects of lightning being transferred to the underground parts of the mine,
- (c) the limitation of the magnitude of earth fault currents to poly phase electrical installations that supply mobile plant fed via flexible trailing or reeling cables and to electrical plant in the underground parts of the mine.

66 Installation of switch gear

The operator of a mine must ensure that appropriately rated electrical switch gear is installed at the mine to enable the safe switching or control of electrical energy.

67 Persons to have appropriate electrical qualifications

The operator of a mine must ensure that:

- (a) electrical installations and electrical plant for which the total connected power at the operation exceeds 1,000kW, or for which high voltage is utilised, are designed and periodically reviewed by a qualified electrical engineer, and
- (b) installation, commissioning, maintenance and repair of all electrical installations and electrical plant (other than extra low voltage automotive plant or electrical plant fed via plug and socket outlets operating at a voltage no greater than 240V) are undertaken or supervised by a qualified electrical tradesperson or qualified electrical engineer, and
- (c) installation, commissioning, maintenance and repair of extra low voltage automotive plant or electrical plant, fed via plug and socket outlets operating at a voltage no greater than 240V, are undertaken by a competent person or a person supervised by a qualified electrical tradesperson or qualified electrical engineer.

68 Co-operation with electricity supply authority

- (1) The operator of a mine must co-operate with an electricity supply authority to ensure the health, safety and welfare of persons undertaking maintenance of an electricity supply authority's infrastructure at a mine.

- (2) In this clause, *electricity supply authority* has the same meaning as in the *Electricity (Consumer Safety) Act 2004*.

Subdivision 8 Structures and buildings

69 Design, construction and maintenance of structures and buildings

The operator of a mine must ensure that all structures and buildings, including temporary structures, at a mine (including those situated in a construction zone designated under clause 77):

- (a) are designed, constructed, and maintained so as to ensure the health, safety and welfare of persons, and
- (b) are periodically assessed for integrity by a competent person.

70 Risk to persons to be controlled

- (1) The operator of a mine must ensure that the design of any structure or building at the mine (including a temporary structure) is such that any person who:
 - (a) constructs, maintains, repairs or demolishes the structure or building, and
 - (b) uses the structure or building,is not, in doing so, exposed to risk.
- (2) Where a risk cannot be eliminated from the design of the structure or building, the operator must ensure that appropriate controls are put in place to minimise the risks to such persons.

71 Information regarding risks

- (1) The operator of a mine must ensure that information regarding risks identified, and not eliminated, during the design of the structure or building are documented and recorded for the life of the structure or building.
- (2) The level of detail to be documented and recorded must be commensurate with the degree of risk identified during the design of the structure or building.

72 Communication of information regarding risks

The operator of a mine must ensure that all relevant information on risks identified, and not eliminated, during the design of a structure or building, and any measures recommended to control the risk, are communicated to persons supervising the construction, maintenance, repair or demolition of the structure or building.

2007 No 631

Clause 73 Mine Health and Safety Regulation 2007

Part 5 Risk controls

Division 2 Documentation of risk control measures

73 Preparation of documentation

- (1) The operator of a mine must ensure that the risk control measures relating to each prescribed hazard at the mine are documented.
- (2) The level of detail to be documented and recorded must be commensurate with the degree of risk identified in relation to the hazard.

Note. The documentation for risk controls should include OH&S risk assessments under Part 4 (see clause 44).

74 Keeping of documentation

The operator of a mine must ensure that the documentation relating to risk control measures at the mine is kept for the period of the currency of the risk control measures.

Division 3 Controlled areas and waste materials

75 Safety and health

- (1) A person who uses, handles, stores, transports or disposes of waste materials produced at a mine must do so in a manner that does not tend to injure, or threaten the safety or health of, any person.
- (2) The operator of a mine must ensure that the persons working at the mine have adequate information, training and conveniently stored equipment to respond to a spillage or other emergency involving waste materials.
- (3) In this clause, *waste materials* means waste rock, overburden, spoil or waste substances produced from the processing of ore or tailings.

76 Mine excavations

- (1) The operator of a mine must eliminate or, where not reasonably practicable, control risks to health and safety arising from any of the following at a mine excavation at the mine:
 - (a) the fall or dislodgement of earth and rock,
 - (b) the inrush of water and other substances,
 - (c) the placement of excavated material,
 - (d) the instability of the excavation and any adjoining structure,
 - (e) the instability due to persons or plant working adjacent to the excavation,

- (f) the unauthorised entry of persons to the excavation area,
 - (g) the access and egress of persons to and from the mine excavation,
 - (h) falls to persons.
- (2) In this clause, **mine excavation** includes access points to, or entrances to, shafts or other vertical openings, stopes, passes, winzes, mine or quarry faces, pit wall faces, trenches, costeans and pits.

77 Construction zones

- (1) If building construction or demolition is being undertaken at a mine, the operator of the mine 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 zone is subject to the relevant provisions of the regulations made under the *Occupational Health and Safety Act 2000*.

78 Disused workings

- (1) Despite the other provisions of this Part, disused underground parts of a mine may be left unventilated if:
- (a) they are isolated from the ventilation system, and
 - (b) they are securely barricaded to prevent access, and
 - (c) they are indicated on the mine plan, and
 - (d) proper measures are taken to prevent dangerous accumulations of gas or dangerous contamination of the mine atmosphere.
- (2) The operator of a mine must ensure that before work is resumed in any workings that have been disused the ventilation is restored so as to comply with Subdivision 3 of Division 1 (Atmosphere).

2007 No 631

Clause 79 Mine Health and Safety Regulation 2007

Part 5 Risk controls

79 Abandoned mine to be protected

- (1) Before any mine is abandoned or all work at any mine is discontinued, at whatever time the abandonment or discontinuance occurred, the person who, at such time, was the operator of the mine must cause the top of every shaft and any other opening to be secured to prevent access.
Note. The operator of a mine is under a duty to give notice to the Chief Inspector in respect of abandonment and discontinuation (see clause 144).
- (2) Any occupier of land or other person must not wilfully obstruct the operator of a mine or other person from doing any such acts.

Part 6 Working arrangements

Division 1 Hours of work

80 Chief Inspector may require alteration of hours of work

For the purposes of section 77 of the Act, the Chief Inspector may direct the operator of a mine to limit working hours or alter associated working arrangements at the mine after completing:

- (a) an examination of the issues, and
- (b) consultation with relevant persons and involved unions.

81 Recording of hours of work

- (1) The records kept by the operator of a mine under section 46 of the Act must include the following information for each person working underground within a roster cycle:
 - (a) the hours worked per day,
 - (b) the number of consecutive days worked,
 - (c) the days and hours not worked.
- (2) Such records must be kept for as many roster cycles as the person works underground at the mine.
- (3) Such records are not required to be kept for any person who works less than one day underground within a roster cycle.
- (4) The records required by this clause must be retained for at least 5 years.

Division 2 Fitness for work

82 Fitness for work program

- (1) The operator of a mine must prepare and implement a fitness for work program in relation to the health, safety and welfare at work of all the persons employed at the mine.
- (2) The fitness for work program must be developed in consultation with the persons employed at the mine.
- (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 mine, and
 - (b) measures to eliminate or control the risks arising from fatigue.

2007 No 631

Clause 83 Mine Health and Safety Regulation 2007

Part 6 Working arrangements

83 Drugs and alcohol

A person must not take drugs or alcohol into a mine unless the person has the authority of the operator of the mine to do so, or the drugs and alcohol are taken in accordance with the policy of the mine operator on drugs and alcohol.

Division 3 Minimum age for underground work

Note. The regulations under the *Occupational Health and Safety Act 2000* require an employer to provide each new employee with training with respect to health and safety procedures relevant to the employee and to provide supervision commensurate to the experience and age of each employee.

84 Minimum age for underground work

- (1) A person must not employ a person under the age of 16 years in the underground parts of a mine.
- (2) A person may employ a person under 18 years of age but who is at least 16 years old in the underground parts of a mine only if the young person is receiving specific instruction or vocational training in relation to working in the underground parts at a mine.

85 Records of employment

- (1) The operator of a mine must keep records indicating, in respect of persons under the age of 18 years employed or working in the underground parts of the mine:
 - (a) the dates of birth of those persons, duly certified wherever possible, and
 - (b) the dates at which those persons were employed or worked in the mine underground for the first time.
- (2) The operator of a mine must, on request:
 - (a) make available to a government official the records referred to in subclause (1), and
 - (b) make available to representatives of persons who work at the mine lists showing the names of persons under the age of 18 years who are employed or work in the mine underground and the dates recorded in respect of them pursuant to subclause (1).

Division 4 Health surveillance of persons at work

Note. The regulations under the *Occupational Health and Safety Act 2000* require an employer to provide health surveillance in relation to hazardous substances and to maintain records in relation to hazardous substances.

86 Provision of health surveillance

- (1) The operator of a mine must make provision for the regular surveillance of the health of persons working at the mine.
- (2) That surveillance must include the periodic provision of medical examinations for each person working at the mine who is exposed or likely to be exposed to occupational health risks at the mine (including risks due to air pollution, noise and vibration).
- (3) In addition to routine health surveillance required under subclauses (1) and (2), the operator of a mine must, if required by the Chief Inspector in writing to do so, arrange for any or all of the following medical examinations (or such of them as are specified in the request):
 - (a) the medical examination of persons who propose to work at the mine to establish their level of health before commencing work,
 - (b) the medical examination of persons who work at the mine to establish whether working at the mine is affecting their health,
 - (c) the medical examination of persons ceasing to work at the mine to establish their level of health at that time.

87 Records of health surveillance

- (1) For the purposes of section 46 of the Act, records must be kept of any routine or specific health surveillance carried out for the purposes of this Division.
- (2) Any record made under this Division must be retained for the mine for at least 5 years or until the person concerned leaves employment at the mine, whichever is the longer period.

88 Records to be provided to employee

An operator of a mine must make a record made under this Division in relation to a person available to that person on request and when the person leaves employment or work at the mine.

89 Records to be made available

An operator of a mine must make a record made under this Division available to any government official on request.

Note. Section 307B of the *Crimes Act 1900* makes it an offence to knowingly give false or misleading information under this clause.

2007 No 631

Clause 90 Mine Health and Safety Regulation 2007

Part 6 Working arrangements

90 Division not to apply to opal mines

This Division does not apply to an opal mine.

Part 7 Mine 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 relation to mines where 20 or more persons are working (that is, mines to which Divisions 2, 3 and 4 apply). 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 *Mine Health and Safety Act 2004*) for fee or reward unless the person is a registered mining surveyor.

Division 1 Obligation to prepare and retain mine plan

91 Application of Division

This Division applies to all mines.

92 Obligation to prepare and retain mine plan

The operator of a mine must ensure that an up-to-date mine plan for the mine is prepared and retained at the mine.

93 Contents of mine plan

The mine plan must include the following:

- (a) proposed workings,
- (b) any old workings at the mine if the mine has been worked in the past or if the mine was abandoned,
- (c) the known or estimated boundary of any adjacent mine workings or geological structure,
- (d) any existing workings,
- (e) any other plans required by the Act or this Regulation.

94 Updating of mine plan

The operator of a mine must cause the mine plan to be updated when it no longer accurately reflects the workings that have been carried out at the mine or the workings that are proposed to be carried out at the mine.

Division 2 Additional arrangements in relation to mine plans for certain mines

95 Application of Division

This Division applies to:

- (a) a mine at which 20 or more persons are working, and
- (b) a mine at which less than 20 persons are working, if the mine is a Gazetted mine for the purposes of this Division.

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Clause 96 Mine Health and Safety Regulation 2007

Part 7 Mine plans

96 Additional contents of mine plan

In addition to the matters required to be included in a mine plan by clause 93, a mine plan in relation to a mine to which this Division applies must also include any other plans required by the Act or this Regulation for mines to which this Division applies.

97 Updating additional contents of mine plans

The mine plan must be updated when it no longer accurately reflects the workings that have been carried out at the mine or the workings that are proposed to be carried out at the mine, in relation to the matters referred to in clause 93.

98 Preparation of mine plan by registered mining surveyor

The operator of a mine must ensure that a mine plan is prepared by or under the supervision of a registered mining surveyor.

99 Certification of mine plan

The operator of a mine must ensure that a mine plan is certified by a registered mining surveyor to have been prepared in accordance with the survey and drafting instructions.

100 Access to mine plans by authorised persons

- (1) The operator of a mine must ensure that the mine plan is produced, on request, to any of the following persons for inspection at the mine site:
 - (a) a government official,
 - (b) a site check inspector (during an inspection of the mine),
 - (c) any other person authorised in writing by the Chief Inspector.
- (2) The operator of a mine must provide a government official with a copy of the mine plan, if requested to do so.
- (3) A government official must ensure that any copy of a mine plan provided to the government official is filed in the records of the Department.

101 Operator may be required to rectify a mine plan

- (1) An inspector may, by notice in writing, require the operator to cause an accurate plan of the mine workings that have been carried out or are proposed to be carried out to be made within a reasonable time at the expense of the operator and retained at the mine.
- (2) An operator must comply with any such requirement.

102 Duty of operator when ceases to operate mine

If an operator is to cease to operate a mine, the operator must:

- (a) update the mine workings plan so that it provides an accurate description of the mine workings at the time the operator ceases to operate the mine, and
- (b) if he or she is aware of the identity of the new operator, provide the updated plan to the new operator.

103 Plans of mines to be abandoned to be sent to Director-General

- (1) If a mine for which a mine plan is required to be prepared and kept is abandoned, the person who at the time of abandonment was the operator must ensure that, within 3 months after the abandonment, an accurate plan of the mine workings up to the time of abandonment is forwarded to the Director-General.
- (2) The plan must be prepared in accordance with the surveying and drafting instructions.

Division 3 Arrangements in relation to surveys for certain mines

104 Application of Division

This Division applies to:

- (a) a mine at which 20 or more persons are working, and
- (b) a mine at which less than 20 persons are working, if the mine is a Gazetted mine for the purposes of this Division.

105 Arrangements in relation to surveys

The operator of a mine must put in place appropriate arrangements to ensure that appropriate up-to-date surveys are conducted of the mine.

106 Chief Inspector may require a check survey

The Chief Inspector may cause a check survey to be made of the mine by the Director-General if a government official has reason to believe that any plan produced to the government official is incorrect.

2007 No 631

Clause 107 Mine Health and Safety Regulation 2007

Part 7 Mine plans

Division 4 Duties of mining surveyors

107 Application of Division

This Division applies to:

- (a) a mine at which 20 or more persons are working, and
- (b) a mine at which less than 20 persons are working, if the mine is a Gazetted mine for the purposes of this Division.

108 Duties of mining surveyors

A mining surveyor must ensure that:

- (a) any variation of the mine 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.

Part 8 Competence standards

Division 1 Key obligations

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

- (1) For the purposes of section 107 (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 107 (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.

Specified function	Specified evidence of competence
Functions of a production manager for a mine that is an above ground mine.	Certificate of competence to be a production manager for an above ground mine, or production manager permit for an above ground mine.
Functions of a production manager for a mine that is an underground mine.	Certificate of competence to be a production manager for an underground mine, or Production manager permit for an underground mine.
Functions of mine operator for an opal mine.	Completion of Mine Operators Workshop (as approved by the Department of Primary Industries).
Functions of a qualified electrical engineer.	Registration on the National Professional Engineers Register (administered by Engineers Australia).
Functions of a qualified electrical tradesperson.	Both an electrical trades certificate and a Qualified Supervisor Certificate (issued by the Department of Commerce), or Employment as an electrical tradesperson at a mine for a period of not less than 2 years prior to the commencement of this clause.

2007 No 631

Clause 110 Mine Health and Safety Regulation 2007

Part 8 Competence standards

Division 2 Development of competence standards

110 Development of competence standards

The Board may develop guidelines for the development of competence standards of persons performing functions at mines.

Division 3 Assessment of competence standards

111 Guidelines for assessment of competence standards

The Board may develop guidelines for the assessment of competence standards of persons performing functions at mines.

112 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
- (b) the applicant's learning and experience, or
- (c) demonstration of competence in examinations conducted by or on behalf of the Board, or
- (d) the results of any previous assessments.

113 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.

114 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

115 Board's recommendation to be considered

- (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.

116 Board may refuse recommendation

- (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 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 a certificate.

117 Refusal of certificates of competence

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

118 Replacement of certificates of competence

- (1) The holder of a certificate of competence that is lost, stolen, damaged or destroyed may apply to the Minister 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) The replacement certificate has the same effect as the original certificate, and for the purposes of the Act is taken to be the original certificate.
- (4) If an application for the replacement of a certificate of competence is refused, the Minister must ensure that written notice of the refusal, and of the reasons for the refusal, are given to the applicant.

119 Functions that holder of certificate 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**120 Maintenance of competence**

- (1) The Minister may establish requirements for the maintenance of competence for holders of a certificate of competence.

2007 No 631

Clause 121 Mine Health and Safety Regulation 2007

Part 8 Competence standards

- (2) Compliance with any such requirement is a condition of the relevant certificate of competence.

Division 6 Suspension and cancellation of certificates of competence

121 Suspension and 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 the functions authorised by the certificate without endangering the health and safety of the person himself or herself or any other person, or
 - (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.

122 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.

123 Cancelled certificates to 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 of competence**124 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.

2007 No 631

Clause 125 Mine Health and Safety Regulation 2007

Part 8 Competence standards

Division 8 Declarations that a person's competence is not recognised

125 Ministerial declarations that a person's competence is not recognised

- (1) The Minister may make a declaration under section 120 (1) (h) of the Act that a person's competence is not recognised only if the Minister complies with this clause.
- (2) The Minister may make such a declaration only if the Minister is 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 endangering the health or safety of the holder or any other person, or
 - (c) the person has been convicted of an offence against the Act or this Regulation, or against the OH&S legislation 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 persons, 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*.

126 Certificates to be surrendered

If a declaration referred to in clause 125 is made and the evidence of the relevant competence comprises a certificate of competence, 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**127 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 persons whose qualifications are recognised by the Board as being equivalent to a certificate of competence.

2007 No 631

Clause 128 Mine Health and Safety Regulation 2007

Part 9 Metalliferous Mines and Extractive Industries Competence Board

Part 9 Metalliferous Mines and Extractive Industries Competence Board

Division 1 Constitution of Board

128 Nomination of panels for appointment as members

- (1) For the purposes of section 114 (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.

129 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.

130 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.

131 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.

132 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.

133 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.

134 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.

2007 No 631

Clause 135 Mine Health and Safety Regulation 2007

Part 9 Metalliferous Mines and Extractive Industries Competence 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 Gazetted corporation or other body, or
 - (b) is a partner, or is in the employment, of a Gazetted person, or
 - (c) has some other Gazetted interest relating to a Gazetted corporation or other body or to a Gazetted person,is a sufficient disclosure of the nature of the interest in any matter relating to that corporation 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

135 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.

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- (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

136 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.

137 Quorum

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

138 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.

139 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.

140 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

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Part 9 Metalliferous Mines and Extractive Industries Competence Board

- (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.
- (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.

141 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.

142 First meeting

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

Part 10 Notifications, records and reporting

Division 1 Notifications of certain operations and activities

143 Notification of drilling operations

For the purpose of section 68 of the Act, a written notice of drilling operations must contain the following information:

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

144 Notification of certain activities and operations

- (1) For the purposes of section 69 (1) of the Act, the operator of a mine must give notice to the Chief Inspector of the following:
 - (a) the commencement of operations or activities at a mine,
 - (b) the suspension of mining work (for a period of 6 months or longer),
 - (c) any discontinuance of all work at the mine (where mining work is suspended but the mine is kept on a care and maintenance basis),
 - (d) any abandonment of the mine (where the mining title, mining licence or other right to extract minerals or quarry product is relinquished),
 - (e) the recommencement of mining work after any discontinuation or abandonment for a period exceeding 2 months,
 - (f) an intention to introduce an electricity supply to the mine before such a supply is introduced.
- (2) Notification must be in writing and must be made within 14 days of the commencement, suspension, discontinuance, abandonment, recommencement or intention.

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Part 10 Notifications, records and reporting

Division 2 Notifications of certain incidents

Note. Section 89 of the Act imposes an obligation on the operator of a mine at which a notifiable incident referred to in section 88 (1) (a) or (b) of the Act has occurred to take measures to ensure that plant at that mine is not used, moved or interfered with after it has been involved in a notifiable incident and the area and environment at that mine that is connected with the notifiable incident is not disturbed.

145 Notification of certain incidents at mines

The following incidents are prescribed for the purposes of section 88 (1) (b) of the Act as incidents notice of which must be given to the Chief Inspector by the operator of a mine:

- (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 requiring hospital treatment,
 - (v) the injection of fluid under pressure,
 - (vi) asphyxia,
 - (vii) loss of consciousness 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 injury) 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, equipment, building or structure,
 - (ii) imminent risk of explosion or fire,
 - (iii) entrapment of a person,
 - (iv) serious burns to a person,
 - (v) 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 medical treatment 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, or

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- (iii) where a person receives an electric shock from a source operating above extra low voltage (as defined by AS/NZS 3000),
 - (e) an uncontrolled explosion or fire,
 - (f) an escape of fluid under high pressure that endangers a person,
 - (g) an uncontrolled issue of gas or fluids,
 - (h) an abnormal inrush of fluid materials,
 - (i) a collision involving a vehicle or other machinery that results in substantial damage, or impedes safe operations, at the mine,
 - (j) the loss of control of a vehicle or other machinery at the mine,
 - (k) the overturning of a vehicle or other machinery at the mine,
 - (l) ejection of fly rock so that it falls outside a blast exclusion zone (being the area below, at or above ground level from which all unauthorised persons are excluded during blasting),
 - (m) failure of any part of a powered winding system or damage to a shaft or shaft equipment,
 - (n) an unplanned fall of ground that impedes passage, disrupts production or ventilation or involves failure of ground support where persons could be present,
 - (o) an airblast,
 - (p) the burial of machinery such that it cannot be recovered under its own tractive effort.

146 Notification of certain incidents at or in relation to mines

- (1) The following are declared to be incidents or matters that are required to be notified for the purposes of section 88 (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 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

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Part 10 Notifications, records and reporting

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) a significant misfire of explosives,
- (f) a progressive stope or progressive pillar collapse,
- (g) a problem or fault in an explosive product or accessory.

(2) In this clause:

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*.

significant misfire means a misfire that cannot be refired without a significant risk to mine personnel or the public.

147 Time for giving notice of incidents

For the purposes of section 88 (4) of the Act, notice of the following incidents must be given as soon as practicable, and in any case within 24 hours, after the operator becomes aware of the notifiable incident:

- (a) a spill or incident resulting in exposure or potential exposure of a person to a notifiable carcinogenic substance or a prohibited carcinogenic substance,
- (b) a progressive stope or progressive pillar collapse,
- (c) a significant misfire of explosives,
- (d) a problem or fault in an explosive product or accessory.

148 Form of notice

For the purposes of section 88 (2) (b) of the Act, a notice under section 88 of the Act must include the following information:

- (a) the name and locality of the mine,
- (b) details of the identity of the operator of the mine,
- (c) the date of the incident,
- (d) the time of the incident,
- (e) a detailed description of the nature of the incident,

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- (f) a reference to the provision of clause 145 or 146 that prescribes the incident or declares it to be an incident required to be notified, and must be signed by the operator, or by someone authorised by the operator to sign on the operator's behalf, and must indicate the position held by the person who signs.

149 Ancillary reports

- (1) This clause applies if:
- (a) an incident that is required to be notified under section 88 of the Act occurs at a mine, 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) The operator of the mine must make a report of any such incident in such a Gazetted ancillary form.

150 Period of non-disturbance

Any period of less than 24 hours commencing on notification of the relevant incident and ending at the time when the operator of the mine has received notification from the Chief Inspector that the scene of the incident may be released is prescribed as the period referred to in section 89 (5) of the Act.

Division 3 Inquiries**151 Terms of reference of Boards of Inquiry**

As soon as practicable after constituting a Board of Inquiry under section 95 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.

152 Prospective appointees to Boards of Inquiry

- (1) The Minister is not to constitute a person as a Board of Inquiry under section 95 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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- (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 4 Keeping of records and reporting

Note. Section 307B of the *Crimes Act 1900* makes it an offence to knowingly give false or misleading information under this Division.

153 Workplace injury records

- (1) The operator of a mine 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) whether the injury required medical treatment,
 - (g) the duration of any time off work arising from the injury,
 - (h) whether the injury necessitated the person being placed on restricted duties.
- (2) Any record made under this clause must be retained at the mine for at least 5 years.

154 Chief Inspector to be informed

- (1) The Chief Inspector may, by notice in writing, require the operator of a mine to furnish the Chief Inspector with specified information concerning workplace injuries.

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- (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.

155 Workplace injury reports

- (1) Within 30 days after the end of each quarter, the operator of a mine must cause a report of the following information, in the Gazetted form, to be given to the Chief Inspector:
 - (a) the total number of workplace injuries at the mine 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 total number of hours worked by employees during the quarter,
 - (e) the total number of hours worked by contractors during the quarter,
 - (f) the number of employees of the mine operator and the number of employees of contractors or self-employed persons who received medical treatment as a result of an injury at the mine,
 - (g) the number of employees of the mine operator and the number of employees of contractors or self-employed persons who are undertaking suitable duties in lieu of their pre-injury duties as a result of an injury at the mine,
 - (h) the number of lost time injuries, including injuries to employees of the mine operator, employees of contractors and self-employed persons,
 - (i) the number of hours lost due to lost time injuries, including injuries to employees of the mine operator, employees of contractors and self-employed persons.
- (2) In this clause, *quarter* means the period ending 31 March, 30 June, 30 September or 31 December in any year.

156 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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Part 10 Notifications, records and reporting

157 Records to be made available

An operator of a mine must make a record made under this Division available to any government official on request.

Part 11 Miscellaneous

Division 1 Chief Inspector's powers where mine is dangerous

158 Chief Inspector may impose prohibitions or restrictions or direct evacuation or closure of mine

- (1) This clause applies if the Chief Inspector is of the opinion that a mine or any part of a mine or any matter, thing or practice at a mine or connected with the control or management of a mine is, or is liable shortly to become, dangerous to the safety or health of any persons employed at the mine.
- (2) If this clause applies, the Chief Inspector may serve on the operator of the mine 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 mine, and
 - (ii) as are set out in the notice, or
 - (b) direct that operator to cause the mine or any part of the mine:
 - (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.

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Part 11 Miscellaneous

- (6) If a notice under this clause cannot be readily served on the operator of a mine 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 mine.
- (7) If a notice is served by the Chief Inspector on the next senior official at a mine in accordance with subclause (6), the Chief Inspector must, as soon as practicable, serve on the operator of the mine a signed copy of the notice.
- (8) Unless it sooner expires, any notice served under subclause (2) or (6) remains in force until it is varied or revoked by the Chief Inspector.

159 Objections to notice

- (1) If a person served with a notice under clause 158 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.

160 Notice to be complied with even if objection or appeal

- (1) Subject to subclause (2), a notice served under clause 158 must, while it remains in force, be complied with even if an objection to the Chief Inspector has been made pursuant to clause 159.
- (2) If a decision is made by the Chief Inspector in respect of a notice served under clause 158 (not being a decision to revoke the notice), the notice as affected by that decision must be complied with.

161 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.

Division 2 Oversight of mines

162 Government official may request information

The operator of a mine must provide a government official with any information or details that the government official requires to be provided in writing.

163 Certain advice to be in writing

Advice given by a government official under section 131 of the Act must be in writing.

Division 3 Reviewable decisions**164 Decisions reviewable by Administrative Decisions Tribunal**

- (1) A person who is dissatisfied with any of the following decisions may apply to the Administrative Decisions Tribunal for a review of the decision:
- (a) a decision by the Chief Inspector under section 22 of the Act to reject the nomination of an operator,
 - (b) a decision by the Minister under section 120 (1) (h) of the Act to declare that a person's competence is not recognised,
 - (c) a decision by the Chief Inspector under clause 22 (1) (b) to refuse to grant a production manager permit,
 - (d) a decision by the Chief Inspector under clause 24 (1) (a) to amend a condition of a production manager permit,
 - (e) a decision by the Chief Inspector under clause 25 to suspend or cancel a production manager permit,
 - (f) a decision by the Minister under clause 121 to suspend or cancel a certificate of competence,
 - (g) a decision by the Chief Inspector under Division 4 to dismiss an application for an exemption under that Division, to impose a condition on an exemption or to withdraw an exemption.

Note. Subclause (1) is made pursuant to the powers conferred by section 167 of the Act.

- (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 production manager permit, if the Chief Inspector does not determine an application for a permit within 3 months after the making of the application.

Division 4 Exemptions**165 Exemptions for particular persons on application**

- (1) A person may apply to the Chief Inspector for an exemption from any provision of this Regulation.

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Part 11 Miscellaneous

- (2) Before making such an application, the person must cause notice of the proposed application to be given:
 - (a) to all persons employed at the mine concerned, or
 - (b) in accordance with any consultation arrangements agreed to by the operator of a mine and the persons who work at the mine.
- (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 persons 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 would 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.
- (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.

166 Exemptions for classes of persons or things

- (1) The Chief Inspector may, by order published in the Gazette, exempt any class of persons 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 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 persons 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.

167 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 Division 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.

Division 5 Other matters**168 Determination of fees and charges by the Minister**

For the purposes of section 188 (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 grant of a production manager permit under clause 19,
- (b) the lodging of an application for a production manager permit under clause 20,
- (c) the replacement of a production manager permit if lost, stolen or damaged under clause 27,
- (d) the preparation of a check survey under clause 106,
- (e) the processing of a notification under Part 10.

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169 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 mines, 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 persons working at mines of any material relating to safety or health (whether published by the Chief Inspector or otherwise) must be complied with by the operator.

170 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.

171 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.

Part 12 Savings and transitional provisions

172 Saving of production manager permits

- (1) A permit issued under section 5C of the *Mines Inspection Act 1901* (as in force immediately before its repeal), if granted on or after 1 January 2000, is taken to have been issued under clause 19 of this Regulation subject to the same conditions as those to which it was issued.
- (2) A permit issued under section 5C of the *Mines Inspection Act 1901* (as in force immediately before its repeal), if granted before 1 January 2000, is for one year after the commencement of this Regulation, taken to have been issued under clause 19 of this Regulation subject to the same conditions as those to which it was issued.
- (3) A permit that is taken to have been issued under this Regulation, by virtue of this clause, may be varied, suspended or cancelled in accordance with this Regulation.

173 Saving of certain actions of Metalliferous Mines and Extractive Industries Competence Board

- (1) Any action taken by the former Board under Division 1 of Part 2 of the *Mines Inspection Act 1901* (as in force immediately before its repeal) in relation to production managers as provided under section 6 of the *Mines Inspection Act 1901* (as in force immediately before its repeal), is, until the first meeting of the new Board, taken to have been taken by the new Board.
- (2) Accordingly, the new Board can act on any matter arising from an arrangement or initiative of the previous Board, for instance by issuing a certificate on exam results arising from an exam conducted by the former Board.
- (3) Without limiting the actions to which subclause (1) applies, that subclause applies to the following actions for production managers above ground and below ground:
 - (a) setting an examination,
 - (b) setting a timetable,
 - (c) setting rules and requirements,
 - (d) setting examination panels of the Board of examiners,
 - (e) issuing certificates,
 - (f) issuing certificates of exam results.

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Clause 174 Mine Health and Safety Regulation 2007

Part 12 Savings and transitional provisions

(4) In this clause:

former Board means the board of examiners of production managers, as constituted under section 6 of the *Mines Inspection Act 1901* immediately before its repeal.

new Board means the Metalliferous Mines and Extractive Industries Competence Board constituted under the *Mine Health and Safety Act 2004*.

174 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 *Mines Inspection Act 1901* 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 in his or her capacity as an inspector.

175 Transitional provision relating to regulation of shafts and winding gear

- (1) An operator of a mine is not required to comply with the requirements in Subdivision 4 of Division 1 of Part 5 during the period of 2 years after its commencement.
- (2) The provisions of Part 5 of the *Mines Inspection General Rule 2000* continue to apply for a period ending on a date that is 2 years after their repeal, as if they had not been repealed.

176 Transitional provision relating to mine plans for mines with less than 20 persons

An operator of a mine at which less than 20 persons are working is not required to comply with the requirement in Division 1 of Part 7 during the period of 6 months after its commencement.

177 Transitional provision relating to workplace injury recording and reporting

An operator of a mine is not required to comply with the requirement in clause 155 until the conclusion of the first full quarterly reporting period after the commencement of that clause.

178 Application of clause 17 of Schedule 5 to the Act

Clause 17 of Schedule 5 to the Act does not have effect until 1 September 2008.

Note. This clause is made pursuant to clause 18 of Schedule 5 to the Act.

179 Nomination of employer as operator of mine

- (1) At any time before section 22 of the Act commences, a nomination may be made under that section, and the Chief Inspector may exercise any functions under that section in relation to such a nomination, as if that section had commenced.
- (2) A person who is dissatisfied with a decision by the Chief Inspector to reject such a nomination under section 22 of the Act, as applying under this clause, may apply to the Administrative Decisions Tribunal for a review of the decision.
Note. Subclause (2) is made pursuant to the powers conferred by section 167 of the Act.
- (3) For the purposes of this clause, the functions of the Chief Inspector under section 22 of the Act may, prior to the commencement of that section, be exercised by the Chief Inspector of Mines within the meaning of the *Mines Inspection Act 1901*.
- (4) Any such function may be delegated under section 32A of the *Mines Inspection Act 1901* as if it were a function under that Act.

180 Hours of work

- (1) This clause has effect until circumstances are first prescribed under section 76 (3) of the Act.
- (2) Pending the prescription of such circumstances, the circumstances prescribed by section 29 (2) of the *Mines Inspection Act 1901* are taken to be circumstances prescribed under section 76 (3) of the *Mine Health and Safety Act 2004*.
Note. Section 29 (2) of the *Mines Inspection Act 1901* relevantly provides that "the general manager of a mine at which persons are employed, or are to be employed, below ground may determine the hours of work so as to require persons to work below ground in the mine for more than 8 consecutive hours or for more than 48 hours in a period of 7 consecutive days and may determine the associated working arrangements. If this requires any alteration to the hours of work or associated working arrangements of persons employed underground at the mine then no such alteration may be made until the general manager has consulted with those persons and with representatives of any trade unions representing them and has obtained agreement to the alterations of not less than 65% of the persons employed underground. The general rules may make provision for or with respect to the manner in which the persons employed underground and the representatives of trade unions are to be consulted".
- (3) For the purposes of this clause, section 29 (2) of the *Mines Inspection Act 1901* is to be construed as if:
 - (a) a reference to the general manager of a mine were a reference to the operator of a mine, and
 - (b) a reference to the general rules were a reference to this Regulation.

BY AUTHORITY