



New South Wales

# Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

under the

Occupational Health and Safety Act 2000

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

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

## Explanatory note

At present, the *Occupational Health and Safety Regulation 2001* does not apply to mining workplaces or coal workplaces, except to the limited extent specified in Schedules 4 and 4A of the Regulation. It does apply to places of work at which activities under the *Petroleum (Onshore) Act 1991* or the *Petroleum (Submerged Lands) Act 1982* are carried out.

The object of Schedule 1 to this Regulation is to broadly apply the *Occupational Health and Safety Regulation 2001* to the mining industry, with some specific modifications or exceptions to take into account the specific nature of mining and the fact that additional protections are imposed by the *Mine Health and Safety Act 2004* and the *Coal Mine Health and Safety Act 2002*. The object of Schedule 2 to this Regulation is to make some minor amendments of a law revision nature.

This Regulation is made under the *Occupational Health and Safety Act 2000* (as amended by the *Mine Health and Safety Act 2004*), including sections 133 (Application of Act to mining workplaces and coal workplaces—references to WorkCover) and 33 (the general regulation-making power).

**2008 No 193**

Clause 1 Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

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**Occupational Health and Safety Amendment  
(Application to Mining Workplaces and Coal  
Workplaces) Regulation 2008**

under the

Occupational Health and Safety Act 2000

**1 Name of Regulation**

This Regulation is the *Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008*.

**2 Commencement**

This Regulation commences on 1 September 2008.

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

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedules 1 and 2.

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## Schedule 1 Amendments relating to mining workplaces and coal workplaces

(Clause 3)

### [1] Clause 3 Definitions

Omit the definitions of *approved form* and *construction work* from clause 3 (1).

Insert in alphabetical order:

*approved form* means the form approved for the time being for the purposes of the provision in which the expression is used:

- (a) by WorkCover—in relation to a place of work that is not a mining workplace or a coal workplace, or
- (b) by the Department Head (Mining)—in relation to a place of work that is a mining workplace or a coal workplace.

*construction work* means any of the following:

- (a) building, including the construction (including the manufacturing of prefabricated elements of a building at the place of work concerned), alteration, renovation, repair, maintenance and demolition of all types of buildings,
- (b) civil engineering, including the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland waterways, dams, river and avalanche and sea defence works, roads and highways, railways, bridges and tunnels, viaducts, and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies,
- (c) excavation conducted for the purposes of building or civil engineering, including the excavation or filling of trenches, ditches, shafts, wells, tunnels and pier holes, and the use of caissons and cofferdams, but not excavation work at a coal workplace or mining workplace for the purposes of extracting minerals or quarry product.

### [2] Clause 3 (1)

Insert in alphabetical order:

*Department Head (Mining)* means the Director-General of the Department of Primary Industries.

*mine* means a place of work that is a mine within the meaning of the *Mine Health and Safety Act 2004*.

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

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### [3] Clause 3 (1), note, where secondly occurring

Insert in alphabetical order:

**coal workplace** means a place of work to which the *Coal Mine Health and Safety Act 2002* applies.

**mining workplace** means a place of work:

- (a) that is a mine within the meaning of the *Mine Health and Safety Act 2004*, or
- (b) at which activities under the *Petroleum (Onshore) Act 1991* or the *Petroleum (Submerged Lands) Act 1982* are carried out.

### [4] Clause 3 (4)

Insert “, but only to the extent that it applies to a place of work that is not a mining workplace or a coal workplace” after “Regulation”.

### [5] Clause 3 (4A)

Insert after clause 3 (4):

- (4A) If the Department Head (Mining) has indicated, by notice in writing, that he or she is satisfied that another standard provides an equivalent standard of safety to an Australian Standard or an Australian/New Zealand Standard, that other standard may be applied instead for the purposes of the relevant provision of this Regulation, but only to the extent that it applies to a place of work that is a mining workplace or a coal workplace.

### [6] Clause 4 Application of Regulation

Insert “(including all mining workplaces and coal workplaces)” after “work” in clause 4 (1).

### [7] Clause 4 (3) and (4)

Omit the subclauses.

### [8] Clause 4, note

Insert at the end of the note:

This Regulation applies to all mining workplaces and coal workplaces, except where specific provisions are expressed to not apply or to apply with modifications. In accordance with section 133 of the Act, clause 358 provides that references in certain provisions of the Act to WorkCover, in connection with the application of the provisions to a mining workplace or a coal workplace, are taken to be references to the Department of Primary Industries, the Director-General of that Department (called the “Department Head (Mining)” in this Regulation or certain inspectors appointed in connection with mining workplaces or coal workplaces.

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**[9] Chapter 2 Places of work—risk management and other matters**

Insert at the end of the note to the Chapter:

Additional requirements for risk management in relation to specified hazards at mining workplaces or coal workplaces are provided in the legislation applying to mining workplaces and coal workplaces (that is, the *Mine Health and Safety Act 2004* and the *Coal Mine Health and Safety Act 2002*, respectively).

**[10] Clause 15 Provision by an employer of personal protective equipment**

Insert “and any self-rescue respiratory device for use by a person working in the underground parts of a mining workplace or a coal workplace” after “cream)” in the definition of *personal protective equipment* in clause 15 (2).

**[11] Clause 18 Employer to provide amenities**

Insert “(in relation to places of work that are not mining workplaces or coal workplaces) or the Department Head (Mining) (in relation to places of work that are mining workplaces or coal workplaces)” after “WorkCover” in the note to clause 18 (2).

**[12] Chapter 3 Workplace consultation**

Insert “A site check inspector for a mining workplace must be a member of any OHS committee for that place of work. A site check inspector and the electrical check inspector for a coal workplace must be members of any OHS Committee for that place of work.” after “directs.” in paragraph (e) of the note to the Chapter.

**[13] Chapter 3, note**

Insert at the end of the note:

A reference to WorkCover in certain provisions of the Act, in connection with the application of the provisions to a mining workplace or a coal workplace, is taken to be a reference to the Department Head (Mining), by virtue of clause 358 (3).

**[14] Clause 24 Minimum requirements for OHS committees**

Insert at the end of the clause:

**Note.** Section 17 (6) of the Act requires that, in the case of a coal workplace, a site check inspector and the electrical check inspector for that coal workplace must be members of any OHS committee for that place of work. Section 17 (7) of the Act requires that, in the case of a mining workplace, a site check inspector for the mining workplace must be a member of any OHS committee for that place of work. The election of site check inspectors for mining workplaces or coal workplaces is determined by the *Mine Health and Safety Act 2004* or the *Coal Mine Health and Safety Act 2002*, respectively.

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

**[15] Clause 30 Additional functions of OHS committees and OHS representatives (section 18 (d) of the Act)**

Insert “, or the Department Head (Mining),” after “WorkCover” in clause 30 (1) (d).

**[16] Clause 30, note**

Insert at the end of the note:

Section 144 of the *Mine Health and Safety Act 2004* sets out the functions of site check inspectors for a mining workplace. Section 164 of the *Coal Mine Health and Safety Act 2002* sets out the functions of site check inspectors for a coal workplace.

**[17] Clause 31 Training to be undertaken by members of OHS committees and OHS representatives**

Insert after clause 31 (7) (before the Table to the clause):

- (8) This clause does not apply to a person who is a member of an OHS committee by virtue of being a site check inspector in relation to a coal workplace.

**Note.** Section 145 of the *Mine Health and Safety Act 2004* makes provision regarding the training of site check inspectors appointed under that Act.

**[18] Clause 33 Definitions**

Omit the definition of *electrical installation* from clause 33 (1). Insert instead:

*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 mining workplace or coal workplace.

**[19] Clause 49A**

Insert before clause 50 (in Division 5 of Part 4.3):

**49A Application to mining workplaces that are mines and to coal workplaces**

This Division does not apply to the atmosphere of a mining workplace that is a mine, or to the atmosphere of a coal workplace, to the extent that more exacting standards are created by or under another Act in relation to that atmosphere than are made by this Division.

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**[20] Clause 53 Ventilation—particular risk control measures**

Insert at the end of the clause (before the penalty provision):

- (2) This clause does not apply to the underground parts of a mining workplace or a coal workplace.

**[21] Clause 62 Fire and explosion—particular risk control measures**

Insert after clause 62 (2) (before the penalty provision):

- (3) This clause does not apply to a mining workplace that is a mine, or to a coal workplace, to the extent that more exacting standards are created by or under another Act in relation to risks associated with fire or explosion at that mining workplace or coal workplace than are made by this clause.

**[22] Clause 65A**

Insert before clause 66 (in Division 9 of Part 4.3):

**65A No application to underground parts of mining workplaces or coal workplaces**

This Division does not apply to the underground parts of a mining workplace or coal workplace.

**[23] Clause 82 Definitions**

Omit “or building maintenance equipment” from the definition of *hoist*.

Insert instead “, a building maintenance unit or a powered winding system”.

**[24] Clause 82**

Insert in alphabetical order:

*powered winding system* means any lifting plant used to carry people for the purposes of allowing access to the underground workings of a mining workplace or a coal workplace or for the purposes of inspecting and maintaining the system or the mine shaft, but does not include manually operated plant or light portable winches.

**[25] Clause 82, definition of “qualified electrical engineer”**

Omit “by WorkCover” from paragraph (b).

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

**[26] Clause 82, definition of “qualified electrical engineer”**

Insert “by WorkCover (in relation to places of work that are not mining workplaces or coal workplaces) or by the Department Head (Mining) (in relation to places of work that are mining workplaces or coal workplaces)” after “Chapter” in paragraph (b).

**[27] Clause 82, definition of “qualified engineer”**

Omit “by WorkCover” from paragraph (b).

**[28] Clause 82, definition of “qualified engineer”**

Insert “by WorkCover (in relation to places of work that are not mining workplaces or coal workplaces) or by the Department Head (Mining) (in relation to places of work that are mining workplaces or coal workplaces)” after “Chapter” in paragraph (b).

**[29] Clause 84 Application**

Omit “date of commencement of this Regulation” from clause 84 (2).

Insert instead “prescribed date”.

**[30] Clause 84 (3)**

Insert after clause 84 (2):

(3) In this clause:

*prescribed date* means:

- (a) in relation to a workplace that is not a mining workplace or a coal workplace—1 September 2001, or
- (b) in relation to a mining workplace that is not a mine—1 September 2001, or
- (c) in relation to a mining workplace that is a mine—1 September 2008, or
- (d) in relation to a coal workplace—23 December 2006.

**[31] Clause 93 Design of powered mobile plant—particular risk control measures**

Insert after clause 93 (3):

- (3A) Subclause (3) does not apply to powered mobile plant intended for use in the underground parts of a mining workplace or a coal workplace.
- (3B) Despite subclause (3A), a person who designs powered mobile plant intended for use in the underground parts of a mining workplace or a coal workplace, in controlling risks, must ensure



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that the plant is designed having regard to the safety requirements specified in subclause (3) when determining measures to control the risk of overturning or of a falling object coming into contact with the operator.

**[32] Clause 98 Application**

Omit “commencement of those clauses” from clause 98 (3).

Insert instead “the prescribed date”.

**[33] Clause 98 (4)**

Insert after clause 98 (3):

(4) In this clause:

*prescribed date* means:

- (a) in relation to a workplace that is not a mining workplace or a coal workplace—1 September 2001, or
- (b) in relation to a mining workplace that is not a mine—1 September 2001, or
- (c) in relation to a mining workplace that is a mine—1 September 2008, or
- (d) in relation to a coal workplace—23 December 2006.

**[34] Clause 103 Manufacturer to control risks**

Omit “commencement of this Regulation” wherever occurring in clause 103 (3) (b) and (c).

Insert instead “prescribed date”.

**[35] Clause 103 (4)**

Insert after clause 104 (3) (before the penalty provision):

(4) In this clause:

*prescribed date* means:

- (a) in relation to a workplace that is not a mining workplace or a coal workplace—1 September 2001, or
- (b) in relation to a mining workplace that is not a mine—1 September 2001, or
- (c) in relation to a mining workplace that is a mine—1 September 2008, or
- (d) in relation to a coal workplace—23 December 2006.

**2008 No 193**

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

**[36] Clause 104 Manufacture of powered mobile plant—particular risk control measures**

Insert at the end of the clause (before the penalty provision):

- (2) Subclause (1) does not apply to the manufacturer of powered mobile plant intended for use in the underground parts of a mining workplace or a coal workplace.
- (3) Despite subclause (2), a person who manufactures powered mobile plant intended for use in the underground parts of a mining workplace or a coal workplace, in controlling risks, must ensure that the plant is designed having regard to:
  - (a) the control measures provided by the designer in compliance with clause 93 (1) and (2), and
  - (b) the safety requirements specified in subclause (1) of this clause,

when determining measures to control the risk of overturning or of a falling object coming into contact with the operator.

**[37] Clause 107 Application for registration of plant design**

Omit clause 107 (1). Insert instead:

- (1) A person may apply:
  - (a) to WorkCover to register the design of plant specified in Part 1 of the Table to this clause, or
  - (b) to the Department Head (Mining) to register the design of plant specified in Part 2 of the Table to this clause.

**[38] Clause 107 (2) (a)**

Omit the paragraph. Insert instead:

- (a) a competent person verifies and records in writing that:
  - (i) in the case of plant specified in Part 1 of the Table to this clause—the design complies with relevant standards listed in Schedule 1 (Standards covering design and manufacture of plant), or
  - (ii) in the case of plant specified in Part 2 of the Table to this clause—the design complies with the design and performance standards published in the Gazette by the Department Head (Mining), and

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**[39] Clause 107 (3) (a)**

Insert “(unless the plant is listed under Part 2 of the Table to this clause and was manufactured before 23 December 2006, in the case of a coal workplace or was manufactured before 1 September 2008 in the case of a mining workplace that is a mine)” after “responsible”.

**[40] Clause 107 (3) (d)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

**[41] Clause 107 (3) (e)**

Insert after clause 107 (3) (d):

- (e) any relevant statement of limitations of use.

**[42] Clause 107, Table**

Omit the Table. Insert instead:

**Table**

**Part 1 General plant**

Boilers and pressure vessels categorised as being of hazard level A, B, C or D according to the criteria in AS 4343—1999

Gas cylinders

Tower cranes

Gantry cranes with a rated capacity greater than 5 tonnes

Bridge cranes with a rated capacity greater than 10 tonnes

Gantry cranes and bridge cranes designed to handle molten metal or dangerous goods (within the meaning of the ADG Code)

Mobile cranes with a rated capacity greater than 10 tonnes

Boom-type elevating work platforms

Lifts (including escalators and moving walkways)

Building maintenance units

Hoists, with a platform movement in excess of 2.4 metres, designed to lift people

Work boxes suspended from cranes

Prefabricated scaffolding

Mast climbing work platforms

Vehicle hoists

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

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Amusement devices (other than coin operated amusement devices) that are, or may be, operated otherwise than by manual power

### Part 2 Mining specific plant

Diesel engine systems used in underground mines at a coal workplace  
Powered winding systems used in a mining workplace or coal workplace

Booster fans used in underground mines at a coal workplace

Braking systems on plant used in underground transport in underground mines at a coal workplace

Canopies on continuous miners used in underground mines at a coal workplace

Portable or hand-held plant or items used to determine or monitor the presence of gases for the purposes of the *Coal Mine Health and Safety Act 2002* and used in underground mines at a coal workplace

Breathing apparatus to assist escape from the underground parts of the coal operation (including self-rescuers) used in underground mines at a coal workplace

Shotfiring apparatus used in underground mines at a coal workplace

Detonators used in underground mines at a coal workplace

Explosive-powered tools used in underground mines at a coal workplace

Refuge chambers used in underground mines at a coal workplace

Conveyor belts used in underground mines at a coal workplace

#### [43] **Clause 108 Further information may be requested**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” where firstly occurring.

#### [44] **Clause 108**

Insert “or the Department Head (Mining)” after “WorkCover” where secondly occurring.

#### [45] **Clause 109 Processing of application**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” where firstly occurring in clause 109 (1).

#### [46] **Clause 109 (1)**

Insert “or the Department Head (Mining)” after “WorkCover” where secondly occurring.

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**[47] Clause 109 (1) (a)**

Insert “, including any limitations of use” after “conditions”.

**[48] Clause 109 (1), note**

Insert “or the Department Head (Mining)” after “WorkCover”.

**[49] Clause 110 Cancellation of design registration in certain circumstances**

Insert “registered by WorkCover” after “a plant design” in clause 110 (1).

**[50] Clause 110 (1A)**

Insert after clause 110 (1):

(1A) The Department Head (Mining) may cancel the registration of a plant design registered by the Department Head (Mining) if satisfied that:

- (a) the applicant for registration of the plant design made a statement or furnished information, in or in connection with the application for the plant design, that the applicant knew, when the statement was made or the information was provided, to be false or misleading in a material particular, or
- (b) on the basis of information received by the Department Head (Mining), the design is unsafe.

**[51] Clause 110 (2)**

Insert “or the Department Head (Mining), as the case requires” after “WorkCover” where firstly occurring.

**[52] Clause 110 (2) (b)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

**[53] Clause 112A**

Insert after clause 112:

**112A Savings concerning coal workplaces**

- (1) An item of plant design referred to in Part 2 of the Table to clause 107 that was approved, or taken to be approved, under clause 70 of the *Coal Mines (General) Regulation 1999*, and any plant design that is in the opinion of the Chief Inspector equivalent to such an approved plant design:

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

- (a) if the approval was given less than 20 years before 23 December 2006—is, until 23 December 2008, taken to be registered under this Chapter subject to the same conditions as to which it was approved, or
  - (b) if the approval was given 20 years or more before 23 December 2006—is, until 23 December 2007, taken to be registered under this Chapter subject to the same conditions as to which it was approved.
- (2) The registration of a plant design referred to in subclause (1) may be varied, suspended or cancelled in accordance with this Chapter.
- (3) In this clause:  
*Chief Inspector* means the Chief Inspector appointed under the *Coal Mine Health and Safety Act 2002*.

### [54] Clause 113 Application for registration of item of plant

Omit clause 113 (2). Insert instead:

- (2) A person:
  - (a) who has control of an item of plant specified in Part 1 of the Table to this clause may apply to WorkCover to register the plant, or
  - (b) who has control of an item of plant specified in Part 2 of the Table to this clause may apply to the Department Head (Mining) to register the plant.

### [55] Clause 113 (3) (d)

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

### [56] Clause 113 (4)

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” where firstly occurring.

### [57] Clause 113 (4)

Insert “or the Department Head (Mining)” after “WorkCover” where secondly occurring.

**[58] Clause 113, Table**

Omit the Table. Insert instead:

**Table**

**Part 1 General plant**

Boilers categorised as being of hazard level A, B or C according to the criteria in AS 4343—1999

Pressure vessels categorised as being of hazard level A, B or C according to the criteria in AS 4343—1999 except the following:

- (a) LP gas fuel vessels for automotive use covered by AS/NZS 3509:1996,
- (b) serially produced pressure vessels covered by AS 2971—1987,
- (c) pressure vessels that do not require periodic internal inspection in accordance with the criteria in Table 4.1 in AS/NZS 3788:1996

Lifts (including escalators and moving walkways) as defined in AS 1735 Parts 1 to 17 (as listed in Schedule 1)

Amusement devices (other than coin operated amusement devices) that are, or may be, operated otherwise than by manual power

Tower cranes

Building maintenance units

Concrete placing units (truck mounted with boom)

Mobile cranes with a safe working load greater than 10 tonnes

**Part 2 Mining specific plant**

Booster fans used in underground mines at a coal workplace

Diesel engine systems used in underground mines at a coal workplace

Powered winding systems used in a coal workplace or mining workplace.

**[59] Clause 115 Processing of application**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

**[60] Clause 115, note**

Insert “or the Department Head (Mining)” after “WorkCover”.

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

**[61] Clause 116 Cancellation of registration of item of plant in certain circumstances**

Insert “registered by WorkCover” after “an item of plant” in clause 116 (1).

**[62] Clause 116 (1A)**

Insert after clause 116 (1):

- (1A) The Department Head (Mining) may cancel the registration of an item of plant registered by the Department Head (Mining) if:
  - (a) satisfied that the applicant for registration of the plant made a statement or furnished information, in or in connection with the application for registration, that the applicant knew, when the statement was made or the information was provided, to be false or misleading in a material particular, or
  - (b) the registration of the plant design for plant of the kind concerned has been cancelled under clause 110.

**[63] Clause 116 (2)**

Insert “or the Department Head (Mining), as the case requires” after “WorkCover” where firstly occurring.

**[64] Clause 116 (2) (b)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

**[65] Clause 117 Automatic cancellation of registration**

Omit “WorkCover” wherever occurring in clause 117 (b) and (c).

Insert “the person who registered the item of plant (that is, WorkCover or the Department Head (Mining))”.

**[66] Clause 117, note**

Insert “or the Department Head (Mining)” after “WorkCover”.

**[67] Clause 118 Renewal of registration**

Insert “by WorkCover or the Department Head (Mining), as the case requires,” after “registered” in clause 118 (2).

**[68] Clause 118 (2)**

Insert “or the Department Head (Mining)” after “WorkCover” wherever occurring.



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**[69] Clause 118 (3) (b)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” where firstly occurring.

**[70] Clause 118 (3) (b)**

Insert “or the Department Head (Mining)” after “WorkCover” where secondly occurring.

**[71] Clause 118 (5)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

**[72] Clause 118 (6)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” where firstly occurring.

**[73] Clause 118 (6)**

Insert “or the Department Head (Mining)” after “WorkCover” where secondly and thirdly occurring.

**[74] Clause 118 (6), note**

Insert “or the Department Head (Mining)” after “WorkCover”.

**[75] Clause 118 (7)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

**[76] Clause 119A**

Insert after clause 119:

**119A Savings concerning coal workplaces**

- (1) An item of plant referred to in Part 2 of the Table to clause 113 that was approved, or taken to be approved, under clause 70 of the *Coal Mines (General) Regulation 1999*, and any item that is in the opinion of the Chief Inspector equivalent to such an approved item:
  - (a) if the approval was given less than 20 years before 23 December 2006—is, until 23 December 2008, taken to be registered under this Chapter subject to the same conditions as to which it was approved, or

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

(b) if the approval was given 20 years or more before 23 December 2006—is, until 23 December 2007, taken to be registered under this Chapter subject to the same conditions as to which it was approved.

(2) The registration of an item referred to in subclause (1) may be varied, suspended or cancelled in accordance with this Chapter.

(3) In this clause:

*Chief Inspector* means the Chief Inspector appointed under the *Coal Mine Health and Safety Act 2002*.

### [77] Clause 120 Application

Omit “date of commencement of this Regulation” from clause 120 (3).

Insert instead “prescribed date”.

### [78] Clause 120 (4)

Omit “its commencement”. Insert instead “the prescribed date”.

### [79] Clause 120 (5)

Omit “their commencement”. Insert instead “the prescribed date”.

### [80] Clause 120 (6)

Insert after clause 120 (5) (before the note):

(6) In this clause:

*prescribed date* means:

(a) in relation to a workplace that is not a mining workplace or a coal workplace—1 September 2001, or

(b) in relation to a mining workplace that is not a mine—1 September 2001, or

(c) in relation to a mining workplace that is a mine—1 September 2008, or

(d) in relation to a coal workplace—23 December 2006.

### [81] Clause 127 Hirer or lessor to control risks

Omit “date of commencement of this Regulation” wherever occurring in clause 127 (2) (a) and (b).

Insert instead “prescribed date”.

**[82] Clause 127 (3)**

Omit the subclause. Insert instead:

- (3) A person who hires or leases plant referred to in subclause (2) (c) to another person must inform that other person of any limitations of use provided in the design registration conditions.

**[83] Clause 127 (5)**

Insert after clause 127 (4) (before the penalty provision):

- (5) In this clause:  
*prescribed date* means:
  - (a) in relation to a workplace that is not a mining workplace or a coal workplace—1 September 2001, or
  - (b) in relation to a mining workplace that is not a mine—1 September 2001, or
  - (c) in relation to a mining workplace that is a mine—1 September 2008, or
  - (d) in relation to a coal workplace—23 December 2006.

**[84] Clause 130 Powered mobile plant—particular risk control measures**

Insert after clause 130 (4) (before the penalty provision):

- (5) Subclauses (1)–(4) do not apply to powered mobile plant intended for use in the underground parts of a mining workplace or a coal workplace.
- (6) Despite subclause (5), a person who hires powered mobile plant intended for use in the underground parts of a mining workplace or a coal workplace, in controlling risks, must ensure that the plant is a designed having regard to the safety requirements specified in subclauses (1)–(4) when determining measures to control the risk of overturning or a falling object coming into contact with the operator.

**[85] Clause 131 Hirer or lessor to keep records**

Insert at the end of the Table to the clause:

Powered winding systems used in underground mines at a mining workplace or a coal workplace

Conveyors in a mining workplace

Earth moving machinery in a mining workplace

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

### [86] Clause 134 Application

Omit clause 134 (2). Insert instead:

- (2) The requirements of this Part as to the installation, erection and commissioning of plant apply to plant installed, erected and commissioned:
  - (a) in relation to workplaces that are not coal workplaces or mining workplaces, after 1 September 2001, or
  - (b) in relation to mining workplaces that are not mines, after 1 September 2001, or
  - (c) in relation to coal workplaces, after 23 December 2006, or
  - (d) in relation to mining workplaces that are mines, after 1 September 2008.

### [87] Clauses 136 and 136A

Omit clause 136. Insert instead:

#### 136 Use of plant—registration requirements

- (1) An employer must ensure that any plant used at a place of work (other than a mining workplace that is a mine, or a coal workplace) that is of a kind specified in Part 1 of the Table to clause 107 and that was designed after the prescribed date is not used unless:
  - (a) the plant has a current design registration number issued under Subdivision 1 of Division 3 of Part 5.2, and
  - (b) evidence of the registration (including any conditions of registration and limitations of use) is readily accessible.

Maximum penalty: Level 3.

- (2) An employer must ensure that any plant used at a place of work (other than a mining workplace that is a mine or a coal workplace) that is of a kind specified in Part 1 of the Table to clause 113 is not used unless:
  - (a) the plant has a current item registration issued under Subdivision 2 of Division 3 of Part 5.2 (or under the *Construction Safety Regulations 1950*), and
  - (b) evidence of the registration (including any conditions of registration and limitations of use) is displayed on or near the plant.

Maximum penalty: Level 3.

- 
- (3) An employer must ensure that any plant used at a mining workplace that is a mine, or a coal workplace, that is of a kind specified in Part 1 of the Table to clause 107 and that was designed after the prescribed date is not used unless:
- (a) the plant has a current design registration number issued under Subdivision 1 of Division 3 of Part 5.2, and
  - (b) evidence of the registration (including any conditions of registration and limitations of use) is readily accessible.

Maximum penalty: Level 3.

- (4) An employer must ensure that any plant used at a mining workplace that is a mine, or a coal workplace, that is of a kind specified in Part 1 of the Table to clause 113 is not used unless:
- (a) the plant has a current item registration issued under Subdivision 2 of Division 3 of Part 5.2 (or under the *Construction Safety Regulations 1950*), and
  - (b) evidence of the registration (including any conditions of registration and limitations of use) is displayed on or near the plant.

Maximum penalty: Level 3.

- (5) An employer must ensure that any plant used at a mining workplace that is a mine, or a coal workplace, that is of a kind specified in Part 2 of the Table to clause 107 is not used unless:
- (a) the plant has a current design registration number issued under Subdivision 1 of Division 3 of Part 5.2, and
  - (b) evidence of the registration (including any conditions of registration and limitations of use) is readily accessible.

Maximum penalty: Level 3.

- (6) An employer must ensure that any plant used at a mining workplace that is a mine, or a coal workplace, that is of a kind specified in Part 2 of the Table to clause 113 is not used unless:
- (a) the plant has a current item registration issued under Subdivision 2 of Division 3 of Part 5.2 (or under the *Construction Safety Regulations 1950*), and
  - (b) evidence of the registration (including any conditions of registration and limitations of use) is displayed on or near the plant.

Maximum penalty: Level 3.

## 2008 No 193

### Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

#### Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

- (7) In the case of:
- (a) plant used at a mining workplace that is a mine:
    - (i) subclauses (3) and (4) do not apply until 1 September 2009, and
    - (ii) subclauses (5) and (6) do not apply until 1 September 2010, and
  - (b) plant used at a coal workplace, subclauses (3), (4), (5) and (6) do not apply until 23 December 2007.
- (8) An employer must ensure that plant to which this clause refers is used only in accordance with any conditions of registration including any limitations of use provided in the design registration.  
Maximum penalty: Level 3.
- (9) A reference in this clause to an employer extends to an owner of plant affecting public safety.
- (10) In this clause:  
*prescribed date* means:
- (a) in the case of plant used at a workplace that is not a mining workplace or a coal workplace—1 September 2001, or
  - (b) in the case of plant used at a mining workplace that is a mine, that is plant referred to in Part 1 of the Table to clause 107—1 September 2008, or
  - (c) in the case of plant used at a mining workplace that is not a mine, that is plant referred to in Part 1 of the Table to clause 107—1 September 2001, or
  - (d) in the case of plant used at a coal workplace that is plant referred to in Part 1 of the Table to clause 107—23 December 2006.

#### **136A Use of plant—particular risk control measures**

- (1) An employer must ensure in relation to use of plant that:
- (a) plant (with the exception of lifts that are operated by members of the public and coin-operated amusement devices) is not operated by a person unless the person has received adequate information and training and is supervised to the extent necessary to minimise the risks to health and safety, and

- 
- (b) plant is used only for the purpose for which it was designed unless a competent person has made an assessment that the change in use does not present an increased risk to health or safety, and
  - (c) if safety features or warning devices are incorporated into plant, the features or devices are used as intended, and
  - (d) if it is not possible to eliminate the risk of entanglement in plant with moving parts, persons do not operate, or pass in close proximity to, the plant unless the risk of entanglement is controlled by guarding that meets the requirements of clause 90 (1) or the use of a safe system of work, and
  - (e) if it is not possible to eliminate the risk of parts or work pieces breaking, disintegrating or being ejected from plant, persons do not operate, or pass in close proximity to, the plant unless the risk is controlled by guarding that meets the requirements of clause 90 (3), and
  - (f) an employee does not work between fixed and traversing parts of plant if there is a risk to health or safety, and
  - (g) if plant can be remotely or automatically energised and become a risk to health and safety:
    - (i) the immediate operating area of the plant is designated as a restricted space and access to it is controlled at all times, and
    - (ii) an employee does not work in the immediate operating area of the plant unless appropriate controls and systems of work are used, and
  - (h) if plant could start without warning and cause hazards, an employee is not permitted to work in the immediate vicinity of the plant unless appropriate controls and systems of work are in place, and
  - (i) pipes and other parts of plant that may become hot are adequately guarded or insulated, and
  - (j) pipes and other parts of plant that may become cold are adequately guarded or insulated, and
  - (k) fixed sources of heat, such as furnaces, coke ovens and cooling racks, are ventilated, and
  - (l) measures are provided to prevent, as far as practicable, unauthorised interference with or alteration or use of plant that may make the plant a risk to health or safety, and

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

- (m) plant is subject to appropriate checks, tests and inspections necessary to minimise risks to health and safety, and
- (n) if the operation or condition of plant presents an immediate risk to health or safety, the plant is withdrawn from operation until the risk is eliminated or, if this is not practicable, controlled.

Maximum penalty: Level 4.

- (2) A reference in this clause to an employer extends to an owner of plant affecting public safety.

### [88] **Clause 141 Powered mobile plant—particular risk control measures**

Insert after clause 141 (12) (before the penalty provision):

- (13) Subclauses (4) and (7) do not apply to powered mobile plant intended for use in the underground parts of a mine at a mining workplace or a coal workplace.
- (14) Despite subclause (13), an employer must, in controlling risks, ensure that powered mobile plant intended for use in the underground parts of a mine at a mining workplace or a coal workplace is designed having regard to the safety requirements specified in subclauses (4) and (7) when determining measures to control risks.

### [89] **Clause 153 Manufacturer to disclose ingredients to other person**

Insert “, the Department Head (Mining)” after “WorkCover” in clause 153 (5).

### [90] **Clause 153, note**

Omit “WorkCover”.

### [91] **Clause 159 Supply of carcinogenic substances**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” wherever occurring in clause 159 (1) (b) and (2).

### [92] **Clause 164 Use of hazardous substances**

Insert “at a mining workplace or coal workplace” after “mining” in clause 164 (1A).

### [93] **Clause 164 (2) (b) and (3)**

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” wherever occurring in clause 164 (2) (b) and (3).



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- [94] Clause 166 Medical practitioner to notify results of health surveillance**  
Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” in clause 166 (1) (c).
- [95] Clause 166 (3)**  
Insert after clause 166 (2) (before the penalty provision):
- (3) A notification of the results of health surveillance under clause 54 (4) of the *Mines Inspection General Rule 2000*, as in force immediately before the commencement of this subclause, is taken to be a notification made under this clause.
- [96] Clause 167 Employer to keep register of hazardous substances**  
Insert after clause 167 (4) (before the penalty provision):
- (5) A register compiled in accordance with clause 55 (2) and (3) of the *Mines Inspection General Rule 2000*, as in force immediately before the commencement of this subclause, is taken to have been compiled under this clause.
- [97] Clause 171 Employer to retain certain material as record**  
Insert “or the Department Head (Mining)” after “WorkCover” in clause 171 (1) (d).
- [98] Clause 171 (2)**  
Omit the subclause. Insert instead:
- (2) If the employer ceases to carry on business in New South Wales, the employer must offer the records referred to in subclause (1) (a):
    - (a) to WorkCover, in relation to atmospheric monitoring or health surveillance at places of work that are not mining workplaces or coal workplaces, or
    - (b) to the Department Head (Mining), in relation to atmospheric monitoring or health surveillance at places of work that are mining workplaces or coal workplaces.
- [99] Clause 172 Medical practitioner to retain records**  
Omit clause 172 (3). Insert instead:
- (3) If the medical practitioner ceases to practise in New South Wales, the medical practitioner must offer the records:

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

- (a) to WorkCover, in relation to records of health surveillance of persons employed at places of work that are not mining workplaces or coal workplaces, or
- (b) to the Department Head (Mining), in relation to records of health surveillance of persons employed at places of work that are mining workplaces or coal workplaces.

### [100] Clause 174

Omit the clause. Insert instead:

#### 174 Employer to provide information

An employer must ensure that all records on hazardous substances that are required to be kept by this Regulation are kept at the employer's place of work and are made available on request to any of the following:

- (a) to WorkCover, in relation to records relating to places of work that are not mining workplaces or coal workplaces,
- (b) to the Department Head (Mining), in relation to records relating to places of work that are mining workplaces or coal workplaces,
- (c) to any emergency services.

Maximum penalty: Level 1.

### [101] Clause 174E Non-application of Chapter

Omit "an underground mine" from clause 174E (1) (j).

Insert instead "the underground parts of a mining workplace or a coal workplace".

### [102] Clause 174ZL Different location permitted

Omit "WorkCover" from clause 174ZL (2). Insert instead "an inspector".

### [103] Clause 174ZO Response to serious incidents and other incidents

Insert at the end of the note to clause 174ZO (2):

Sections 86 and 87 of the Act do not apply to mining workplaces or coal workplaces. Notifications are to the Department Head (Mining) under section 110 of the *Coal Mine Health and Safety Act 2002* or section 88 of the *Mine Health and Safety Act 2004*.

### [104] Clause 174ZP Investigation of serious incidents and other incidents

Omit "WorkCover" from clause 174ZP (b) (iii). Insert instead "an inspector".

**[105] Clause 174ZR Information may be requested**

Insert “of premises that are a place of work that is not a mining workplace or a coal workplace” after “an occupier” in clause 174ZR (1).

**[106] Clause 174ZR (1A)**

Insert after clause 174ZR (1):

- (1A) The Department Head (Mining) may request any information from an occupier of premises that are a mining workplace or a coal workplace in relation to:
- (a) the cause or effect of a serious incident or other incident that has occurred on the occupier’s premises, and
  - (b) any action taken by the occupier as a result of the serious incident or other incident.

**[107] Clause 174ZR (3) (b)**

Insert “or the Department Head (Mining) (as the case may be)” after “WorkCover”.

**[108] Clause 174ZR (4)**

Omit the subclause.

**[109] Clause 174ZS Notification to WorkCover**

Insert “, the Department Head (Mining)” after “council” in clause 174ZS (5).

**[110] Clause 207 Electrical work on electrical installations—safety measures**

Insert after clause 207 (4) (j):

- , and
- (k) in the case of electrical work at a mining workplace or coal workplace, notice is given of the proposed work, at least 7 days before the work commences, to an inspector appointed in relation to the mining workplace or coal workplace.

**[111] Clause 210 Appointment of principal contractor**

Omit “(but does not apply to a place of work if the contract to undertake the work referred to was entered into before the commencement of this clause)” from clause 210 (1).

## 2008 No 193

### Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

#### [112] Clause 210 (1A)

Insert after clause 210 (1):

- (1A) Despite subclause (1), this clause does not apply to the following places of work at which the work referred to in the subclause is undertaken:
- (a) a mining workplace that is a mine for which there is an operator nominated under the *Mine Health and Safety Act 2004*, or
  - (b) a coal workplace for which there is an operator nominated under the *Coal Mine Health and Safety Act 2002*.

#### [113] Clause 212A

Insert after clause 212:

##### 212A Application to mining workplaces and coal workplaces

A person is not required to undertake general health and safety induction training that complies with clause 217, or to ensure that such training is undertaken in relation to a person carrying on construction work at a mining workplace that is a mine, or at a coal workplace if:

- (a) the person carrying on construction work is not principally or regularly engaged in construction work at that workplace, and
- (b) an operator has been nominated for the mine under the *Mine Health and Safety Act 2004* or for the coal workplace under the *Coal Mine Health and Safety Act 2002*, and
- (c) the person carrying on construction work has been provided with site specific health and safety induction training that:
  - (i) complies with clause 219, and
  - (ii) covers the relevant health and safety topics set out in the Code of Practice (as required by clause 217 (1) (a)) that the person would otherwise have been provided with if the person had completed general health and safety induction training for construction work, and
  - (iii) relates to the particular site at which the construction work is to be carried out.

**[114] Clause 218 Work activity based health and safety induction training**

Insert at the end of clause 218:

- (2) This Part does not apply so as to require work activity based health and safety induction training to be undertaken by persons carrying out construction work at a mining workplace or a coal workplace.

**[115] Clause 226 Responsibility of principal contractor to prepare an OHS management plan**

Insert “or the Department Head (Mining)” after “WorkCover” in the note to clause 226 (3) (c).

**[116] Clause 238 Definition**

Omit “paragraph (a)”. Insert instead “paragraph (c)”.

**[117] Clause 267 Application of Part**

Insert after clause 267 (2):

- (3) Despite subclause (1), this Part does not apply until 1 September 2009 to scheduled work when carried out at a mining workplace that is a mine, or at a coal workplace.
- (4) Despite subclause (1), this Part does not apply to scheduled work listed in items 10.1–10.7 of the Schedule to clause 266 when carried out at a mining workplace that is a mine, or at a coal workplace.

**[118] Clause 299A**

Insert after clause 299:

**299A Non-application of Part to mining workplaces that are mines and coal workplaces**

This Part does not apply to work to which this Part applies when carried out at a mining workplace that is a mine, or at a coal workplace.

**[119] Clause 317 Definitions**

Insert after paragraph (c) (ii) of the definition of *licensed work* in clause 317 (1):

- , or
- (iii) work done for the purpose only of non-asbestos mining where rock or tailings containing naturally occurring asbestos is removed or disturbed,

**2008 No 193**

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

**[120] Clause 317 (1), definition of “licensed work”**

Insert after paragraph (d) (ii):

, or

- (iii) work done for the purpose only of non-asbestos mining where rock or tailings containing naturally occurring asbestos is removed or disturbed.

**[121] Clause 341 Notification of incidents—additional incidents to be notified**

Insert at the end of the note to the clause:

Sections 86 and 87 of the Act do not apply to mining workplaces or coal workplaces. Notifications are to the Department Head (Mining) under section 88 of the *Mine Health and Safety Act 2004* or section 110 of the *Coal Mine Health and Safety Act 2002*.

**[122] Clause 345 Proposed work in respect of which notice is required**

Omit clause 345 (1). Insert instead:

- (1) An employer at a place of work that is not a mining workplace or a coal workplace must not commence to carry out work of the following kind at a place of work unless the employer has given WorkCover notice of the proposed work:
  - (a) work that involves the use of a notifiable or prohibited carcinogenic substance (as defined in Part 6.3),
  - (b) lead risk work (as defined in Part 7.6),
  - (c) bonded asbestos removal work (as defined in Part 10.1),
  - (d) demolition work (as defined in Part 10.1), other than work for which a permit under Chapter 11 is in force.
- (1A) An employer at a mining workplace or a coal workplace must not commence to carry out work of the following kind at the place of work unless the employer has given the Department Head (Mining) notice of the proposed work:
  - (a) work that involves the use of a notifiable or prohibited carcinogenic substance (as defined in Part 6.3),
  - (b) lead risk work (as defined in Part 7.6),
  - (c) bonded asbestos removal work (as defined in Part 10.1),
  - (d) demolition work (as defined in Part 10.1), other than work for which a permit under Chapter 11 is in force.
- (1B) The Department Head (Mining) is to forward any notice that he or she receives under subclause (1A) (c) or (d) to WorkCover.

- [123] Clause 346 WorkCover or Department Head (Mining) to be notified of any reviews of risk assessments**  
Insert “or the Department Head (Mining), as the case may be,” after “WorkCover”.
- [124] Clause 347 Exemptions for particular persons on application**  
Omit clause 347 (1). Insert instead:
- (1) A person may apply:
    - (a) to WorkCover for an exemption from any provision of this Regulation in its application to a place of work that is not a mining workplace or a coal workplace, or
    - (b) to the Department Head (Mining) for an exemption from any provision of this Regulation in its application to a place of work that is a mining workplace or a coal workplace.
- [125] Clause 347 (5)**  
Insert “or the Department Head (Mining), as the case requires” after “WorkCover”.
- [126] Clause 347 (6) and (8) and note**  
Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” wherever occurring.
- [127] Clause 348 Exemptions for classes of persons or things**  
Insert “in its application to a workplace that is not a mining workplace or a coal workplace” after “Regulation” in clause 348 (1).
- [128] Clause 348 (1A)**  
Insert after clause 348 (1):
- (1A) The Department Head (Mining) may, by order published in the Gazette, exempt any class of persons or things from a specified provision of this Regulation in its application to a workplace that is a mining workplace or a coal workplace.
- [129] Clause 348 (2), (4) and (5)**  
Insert “or the Department Head (Mining), as the case requires,” after “WorkCover” wherever occurring.
- [130] Clause 349 Registers of exemptions**  
Insert “by WorkCover” after “granted” in clause 349 (1).
-

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

### [131] Clause 349 (1A)

Insert after clause 349 (1):

- (1A) The Department Head (Mining) is required to keep and make available for public inspection a register of all exemptions granted by the Department Head (Mining) under this Part that are in force.

### [132] Clause 349 (2)

Insert “or the Department Head (Mining), as the case requires,” after “WorkCover”.

### [133] Part 12.5

Omit the Part. Insert instead:

## Part 12.5 Reviews of decisions

### 351 Decisions subject to review by the Administrative Decisions Tribunal: section 36 of the Act

- (1) A person aggrieved by a decision that belongs to one of the following classes of decisions (being a decision made in respect of that person) may apply to the Administrative Decisions Tribunal for a review of the decision:
- (a) decisions made by WorkCover under clause 31 (4) to refuse to accredit the person as a trainer,
  - (b) decisions made by WorkCover or the Department Head (Mining) under Part 5.2:
    - (i) to refuse to register a plant design, or
    - (ii) to refuse to register an item of plant, or
    - (iii) to impose a condition on registration of an item of plant, or
    - (iv) to cancel the registration of an item of plant, or
    - (v) to discontinue the registration of an item of plant,
  - (c) decisions made by WorkCover under Chapter 9:
    - (i) to refuse to issue a certificate of competency, or
    - (ii) to suspend or cancel a certificate of competency, or
    - (iii) to refuse to replace a certificate of competency, or
    - (iv) to refuse to accredit a person as an assessor, or
    - (v) to suspend or cancel a person’s accreditation as an assessor, or



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- (vi) to confirm the decision of an assessor on an application for a review of the decision,
  - (d) decisions made by WorkCover under Chapter 10:
    - (i) to refuse to issue a licence, or
    - (ii) to impose a condition on a licence, or
    - (iii) to suspend or cancel a licence,
  - (e) decisions made by WorkCover under Chapter 11:
    - (i) to refuse to issue a permit, or
    - (ii) to impose a condition on a permit, or
    - (iii) to suspend or cancel a permit,
  - (f) decisions made by WorkCover or the Department Head (Mining) under Part 12.4:
    - (i) to dismiss an application for an exemption from a provision of this Regulation, or
    - (ii) to impose a condition on an exemption from a provision of this Regulation, or
    - (iii) to withdraw an exemption from a provision of this Regulation.
- (2) WorkCover is taken, for the purposes of an application for review by the Administrative Decisions Tribunal:
- (a) to have refused to grant an approval, permission or exemption, or
  - (b) to have refused to register a plant design or an item of plant or amusement device, or
  - (c) to have refused to issue a certificate of competency or licence, or
  - (d) to have refused to amend or cancel a condition of an approval, registration, permission or exemption, or
  - (e) to have refused to rescind a cancellation or discontinuance of registration, or
  - (f) to have refused to accredit an assessor under Chapter 9, or
  - (g) to have confirmed a decision of an assessor under Chapter 9,
- if it does not determine an application in relation to the relevant matter within 3 months after the date of lodgment of the application.

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 1 Amendments relating to mining workplaces and coal workplaces

---

- (3) WorkCover is taken, for the purposes of an application for review by the Administrative Decisions Tribunal, to have refused an application to issue a permit under Chapter 11 if it does not determine the application within 7 days (or 21 days in the case of an application for a permit to do demolition work involving the use of explosives) after the date of lodgment of the application.
- (4) The Department Head (Mining) is taken, for the purposes of an application for review by the Administrative Decisions Tribunal, to have refused to register a plant design or an item of plant, or to have refused to grant, or to amend or cancel a condition of, an approval, permission or exemption, if the Department Head (Mining) does not determine an application in relation to the relevant matter within 3 months after the date of lodgment of the application.

**Note.** The Minister administering the *Administrative Decisions Tribunal Act 1997* has concurred in the making of the above clause pursuant to section 36 (2) of the *Occupational Health and Safety Act 2000*.

### [134] Clause 357

Omit the clause. Insert instead:

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

For the purposes of section 106 (1) (b) of the Act, the Department Head (Mining) is a prescribed officer in relation to proceedings for an offence against the Act concerning a place of work that is a mining workplace or coal workplace.

### [135] Clause 358 Application of Act to mining workplaces and coal workplaces: references to WorkCover

Omit “mine” wherever occurring in clause 358 (1), (2) and (3).

Insert instead “mining workplace”.

### [136] Clause 358 (2) and (3)

Omit “Director-General of the Department of Primary Industries” wherever occurring.

Insert instead “Department Head (Mining)”.

**[137] Clause 358 (4)–(6)**

Omit clause 358 (4). Insert instead:

- (4) In accordance with section 133 of the Act, a reference in section 104A of the Act to WorkCover, in connection with the application of the provision to proceedings under the Act (rather than the *Coal Mine Health and Safety Act 2002* or the *Mine Health and Safety Act 2004*) in connection with a mining workplace or a coal workplace, is taken to be a reference to the Department Head (Mining).
- (5) In accordance with section 133 of the Act, a reference in section 107 or 107A (1) or (2) of the Act to WorkCover, in connection with the application of the provision to a mining workplace or a coal workplace, is taken to be a reference to a person taken to have been appointed as an inspector by virtue of section 47A (Appointment of inspectors in connection with mining workplaces) or 47B (Appointment of inspectors in connection with coal workplaces) of the Act.
- (6) In accordance with section 133 of the Act, a reference in section 107A of the Act to the Chief Executive Officer of WorkCover, in connection with the application of the provision to a mining workplace or a coal workplace, is taken to be a reference to the Department Head (Mining).

**[138] Clause 358A Sharing of information between WorkCover and Department of Primary Industries**

Omit “Chapter 6A” wherever occurring. Insert instead “this Regulation”.

**[139] Schedule 1 Standards covering design and manufacture of plant**

Insert “or the Department Head (Mining)” after “WorkCover” in paragraph (b) of the note to the Schedule.

**[140] Schedule 4 Application of Regulation to mines**

Omit the Schedule.

**[141] Schedule 4A Application of Regulation to coal workplaces**

Omit the Schedule.

## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 2 Amendments relating to law revision

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## Schedule 2 Amendments relating to law revision

(Clause 3)

- [1] **Clause 9 Employer to identify hazards**  
Omit clause 9 (4) and (5).
- [2] **Clause 10 Employer to assess risks**  
Omit clause 10 (2) and (3).
- [3] **Clause 11 Employer to eliminate or control risks**  
Omit clause 11 (4) and (5).
- [4] **Clause 32 Savings and transitional arrangements**  
Omit clause 32 (2) and (4).
- [5] **Clause 33 Definitions**  
Omit clause 33 (2).
- [6] **Clause 40 Application**  
Omit “*Electricity Safety (Electrical Installations) Regulation 1998*” wherever occurring.  
Insert instead “regulations under the *Electricity (Consumer Safety) Act 2004*”.
- [7] **Clause 40, note**  
Omit “that Regulation”. Insert instead “those regulations”.
- [8] **Clause 63 Application**  
Omit “*Electricity Safety (Electrical Installations) Regulation 1998*”.  
Insert instead “regulations under the *Electricity (Consumer Safety) Act 2004*”.
- [9] **Clause 63**  
Omit “that Regulation”. Insert instead “those regulations”.
- [10] **Clause 98 Application**  
Omit “the date of commencement of this Regulation” from clause 98 (2).  
Insert instead “1 September 2001”.
- [11] **Clause 120 Application**  
Omit clause 120 (4) and (5) (but not the note).

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- [12] **Clause 127 Hirer or lessor to control risks**  
Omit clause 127 (3) and (4).
- [13] **Clause 131 Hirer or lessor to keep records**  
Omit “Australian Dangerous Goods Code” from the Table to the clause.  
Insert instead “ADG Code”.
- [14] **Clause 132 Hirer or lessor to provide information**  
Omit “(A person who hires or leases plant to another person is not required to comply with this subclause within the period of 12 months after its commencement.)” from clause 132 (1).
- [15] **Clause 133 Hirer or lessor to obtain information**  
Omit “(A person who hires or leases plant to another person is not required to comply with this subclause within the period of 12 months after its commencement.)” from clause 133 (1).
- [16] **Clause 134 Application**  
Omit “the date of commencement of this Regulation” from clause 134 (3).  
Insert instead “1 September 2001”.
- [17] **Clause 134 (4)**  
Omit “the commencement of this Part”. Insert instead “1 September 2001”.
- [18] **Clause 135 Installation, erection and commissioning of plant—particular risk control measures**  
Omit “(An employer is not required to comply with paragraphs (a)–(i) within the period of 12 months after commencement of this clause.)”.
- [19] **Clause 138 Dismantling, storage and disposal of plant—particular risk control measures**  
Omit “(An employer is not required to comply with this clause within the period of 12 months after its commencement.)”.
- [20] **Clause 160 Supplier to keep records of supply of carcinogenic substances**  
Omit “This clause does not apply to the supply of a prohibited or notifiable carcinogenic substance within the period of 12 months after commencement of this clause”.
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## 2008 No 193

Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008

Schedule 2 Amendments relating to law revision

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**[21] Clause 165 Employer to provide health surveillance**

Omit “An employer is not required to provide health surveillance within the period of 12 months after commencement of this clause in the case of exposure of an employee to benzene, chromium (inorganic), creosote or pentachlorophenol (PCP).” from clause 165 (1).

**[22] Clause 169 Employer to keep record of employees exposed to carcinogenic substances**

Omit “An employer is not required to keep such a record within the period of 12 months after commencement of this clause.”.

**[23] Clause 170 Employer to provide statement to employees exposed to carcinogenic substances**

Omit clause 170 (2).

**[24] Clause 202 Biological monitoring and health surveillance**

Omit “the commencement of this clause” wherever occurring in clause 202 (2) (a) and (b).

Insert instead “1 September 2001”.

**[25] Clause 202 (2) (a)**

Omit “that commencement”. Insert instead “that date”.

**[26] Clause 212 Definitions**

Omit “the commencement of this Regulation” from the definition of *Code of Practice*.

Insert instead “1 September 2001”.

**[27] Clause 216 Meaning of “OHS induction training”**

Omit “the commencement of this clause” from clause 216 (2).

Insert instead “1 September 2001”.

**[28] Clause 217A Accreditation of individuals to conduct OHS induction training**

Omit “the commencement of this clause” from clause 217A (7).

Insert instead “19 March 2004”.

**[29] Clause 217A (8)**

Omit “the commencement of that subclause”. Insert instead “19 March 2004”.

- [30] Clause 311 Term of certificates**  
Omit “the commencement of this subclause” from clause 311 (1) (a).  
Insert instead “1 September 2001”.
- [31] Clause 311 (1) (b)**  
Omit “the commencement of this clause”. Insert instead “1 September 2001”.
- [32] Part 10.4 Savings and transitional provisions**  
Omit the Part.
- [33] Clause 345 Proposed work in respect of which notice to WorkCover is required**  
Omit clause 345 (5) and (6).
- [34] Clause 350 Phasing out of former exemptions**  
Omit the clause.
- [35] Clause 352 Definitions**  
Omit the clause.
- [36] Clause 359 Continuation of former OHS shop provisions**  
Omit “the commencement of this Regulation” wherever occurring.  
Insert instead “1 September 2001”.