



New South Wales

Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008

under the

Occupational Health and Safety Act 2000

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

ERIC ROOZENDAAL, M.L.C.,
Acting Minister Assisting the Minister for Finance

Explanatory note

The *Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008* (which was published in the Gazette on 20 June 2008, but does not commence until 1 September 2008) amends the *Occupational Health and Safety Regulation 2001* (the **Principal Regulation**) to provide (amongst other things) that the Principal Regulation is from that date to apply to mining workplaces and coal workplaces.

The *Occupational Health and Safety Amendment (Major Hazard Facilities) Regulation 2008* (which commenced on 14 July 2008) amended the Principal Regulation to put in place measures aimed at preventing major accidents occurring at major hazard facilities and protecting the health and safety of persons at work and the public from hazards leading to, or arising from, such major accidents.

The object of this Regulation is to amend the Principal Regulation:

- (a) to make it clear that the provisions relating to major hazard facilities do not apply to mining workplaces and coal workplaces even after 1 September 2008, and
- (b) to remake a number of provisions (relating to reviews by the Administrative Decisions Tribunal) that would otherwise be inadvertently omitted from the Principal Regulation by the *Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008* on 1 September 2008, and
- (c) to make a law revision amendment.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including Part 3 (Regulations).

2008 No 389

Clause 1 Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008

**Occupational Health and Safety Further Amendment
(Major Hazard Facilities) Regulation 2008**

under the

Occupational Health and Safety Act 2000

1 Name of Regulation

This Regulation is the *Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008*.

2 Commencement

This Regulation commences immediately after the commencement of the *Occupational Health and Safety Amendment (Application to Mining Workplaces and Coal Workplaces) Regulation 2008* 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 Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 175 Application

Insert at the end of clause 175 (2) (c):

, or

- (d) a coal workplace, or
- (e) a mining workplace.

[2] Clause 175 (2), note

Omit the note to the subclause.

[3] Clause 175A Definitions

Omit “material present, including” from clause 175A (3).

Insert instead “material, including”.

[4] Clause 351 Decisions subject to review by the Administrative Decisions Tribunal: section 36 of the Act

Insert after clause 351 (1) (b):

- (b1) decisions made by WorkCover under Chapter 6B:
 - (i) that determine that a potential major hazard facility is a major hazard facility, or
 - (ii) to refuse provisional registration or registration of a major hazard facility, or
 - (iii) to impose a condition on the provisional registration or registration of a major hazard facility, or
Note. This subparagraph relates to conditions imposed on provisional registrations or registrations of major hazard facilities under clauses 175O (1) (c) and 175T (1) (c), not general conditions applying to all provisional registrations or registrations under clauses 175O (1) (b) and 175T (1) (b).
 - (iv) to suspend or cancel the provisional registration or registration of a major hazard facility, or
 - (v) to refuse to renew the registration of a major hazard facility,

2008 No 389

Occupational Health and Safety Further Amendment (Major Hazard Facilities) Regulation 2008

Schedule 1 Amendments

[5] Clause 351 (2A)–(2C)

Insert after clause 351 (2):

- (2A) If a person has provided a notification under clause 175F in relation to a facility or proposed facility to WorkCover and WorkCover has not within 3 months of that notification provisionally registered the facility or proposed facility under clause 175M, WorkCover is taken, for the purposes of an application for review by the Administrative Decisions Tribunal, to have refused the provisional registration.
- (2B) WorkCover is taken, for the purposes of an application for review by the Administrative Decisions Tribunal, to have refused to register a major hazard facility if it does not determine an application in relation to the registration within 12 months after the date of lodgment of the application.
- (2C) Subclause (2) does not apply to any decision under Chapter 6B (as referred to in subclause (1) (b1)).

BY AUTHORITY
