



New South Wales

Work Health and Safety (Mines) Regulation 2014

under the

Work Health and Safety (Mines) Act 2013

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Work Health and Safety (Mines) Act 2013*.

ANTHONY ROBERTS, MP
Minister for Resources and Energy

Explanatory note

The object of this Regulation is to protect the health and safety of workers at mines and other persons whose health and safety may be affected by mining operations. In particular, this Regulation makes provision with respect to the following matters:

- (a) the role of the mine operator,
- (b) managing risks to health and safety associated with mining operations, including by the preparation of a safety management system, principal mining hazard management plans and principal control plans,
- (c) the health monitoring of workers,
- (d) consultation with workers at a mine and the safety role of workers at the mine,
- (e) the preparation of mine survey plans and mine plans,
- (f) requiring mine operators to provide certain information to the regulator,
- (g) the keeping of a mine record,
- (h) the exercise of statutory functions at mines by suitably qualified individuals,
- (i) the licensing of certain activities at underground coal mines,
- (j) the membership and functions of the Mine Safety Advisory Council and the Mining Competence Board,
- (k) safety and health representatives at coal mines,
- (l) other miscellaneous matters.

This Regulation is made under the *Work Health and Safety (Mines) Act 2013*, including sections 6 (2) (b), 14 (b) and (c), 18 (3) (d), 19 (b), 27 (3), 28 (1), 38 (1) and (2), 39 (1), 50 (2) (c), 61 (b), 62, 65 (1) (b) and (c) and (2), 67 (2) and 76 (the general regulation-making power) and clause 1 of Schedule 1 and Schedule 2 and the *Work Health and Safety Act 2011* including sections 4 (definition of *officer*), 42, 49 (f) and 276 (the general regulation-making power) and Schedule 3 to that Act.

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Work Health and Safety (Mines) Regulation 2014

under the

Work Health and Safety (Mines) Act 2013

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Work Health and Safety (Mines) Regulation 2014*.

2 Commencement

This Regulation commences on 1 February 2015 and is required to be published on the NSW legislation website.

3 Definitions

(1) In this Regulation:

airblast or **windblast** 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.

auxiliary fan means a fan (other than a cooling fan for equipment or a scrubber fan) used underground to direct ventilation in a part of an underground mine.

booster fan means a fan installed in such a way that the total ventilation flow in the place where the fan is installed passes through it.

cache means a place in a mine at which self-contained self-rescuers are stored for use in an emergency.

change-over station means a place in a mine intended to be used for the change-over of self-contained self-rescuers in an emergency.

competent person for electrical work on energised electrical equipment or energised electrical installations (other than testing referred to in clauses 150 and 165 of the WHS Regulations) at a mine to which Schedule 10 applies—means a person who has the qualifications to be nominated to exercise the statutory function of qualified electrical tradesperson at the mine.

Note. The definition of **competent person** in clause 5 (1) of the WHS Regulations specifies the competence required to be a competent person in respect of a number of particular tasks. Paragraph (g) of that definition specifies that in any other case a person is a competent person in respect of a task if the person has acquired through training, qualification or experience the knowledge and skills to carry out the task.

contractor—see clause 19.

cut-through means a tunnel driven to connect adjacent headings.

electrical installation has the same meaning as it has in Part 4.7 of the WHS Regulations.

electrical plant means plant, all or part of which is powered by electricity.

emergency plan means the emergency plan prepared under clause 88.

emplacement area means any place at which there is **reject** (being material left after the processing of extracted minerals), including any wall or other structure that retains the reject, but does not include:

- (a) any reject situated underground, or
- (b) any reject that has been disposed of with overburden in such a way that it does not alter the stability of any overburden dump.

exploration site means a place where activities are carried out for the purpose of exploring for minerals by mechanical means that disturb the ground.

explosion-protected, in relation to plant, means the plant is not capable of initiating an explosion of gas or dust.

explosive and **explosive precursor** have the same meanings that they have in the *Explosives Act 2003*.

extraction site means a place where activities are carried out for the purpose of extracting minerals from the ground or injecting minerals into the ground.

face machine includes a continuous miner, a mobile roof bolter, a road header and a tunnel boring machine.

face zone means any area within 200 metres:

- (a) outbye of a longwall face, or
- (b) in the case of a panel where mining is being carried out by a continuous miner—outbye of the most inbye completed line of cut-throughs.

fire-protected, in relation to an engine, means the engine will not ignite flammable substances (other than gases).

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

hazardous atmosphere has the same meaning that it has in clause 51 of the WHS Regulations.

hazardous zone, in an underground coal mine, means each of the following:

- (a) any part at the mine in which the concentration of methane in the general body of the air is 1.25% by volume or greater,
- (b) a return airway,
- (c) any part of an intake airway that is on the return side of such points that are within 100 metres outbye of:
 - (i) the most inbye completed line of cut-throughs, or
 - (ii) any longwall or shortwall face, but only to the extent that the intake airway is on the intake side of that face (but not if the longwall face is an installation face at which the development of the face, and mining for development coal, have been completed and at which longwall mining has yet to commence).

heading means a tunnel driven in the main direction of the mining operation.

highwall mining means the underground extraction of coal carried out:

- (a) by remotely controlled plant that drives the extraction from an open pit or hole, and
- (b) without requiring any person to be present at any part of the extraction.

hot work means welding, soldering, heating, cutting, grinding or vulcanising where a surface temperature of more than 150° Celsius is likely to be generated.

inbye, in a mine, means in a direction away from the closest entrance of the mine.

inhalable dust has the same meaning as in the *Guidance on the Interpretation of Workplace Exposure Standards for Airborne Contaminants* published by Safe Work Australia in April 2012.

inrush hazard means a hazard involving the potential inrush of any substance.

intrinsically safe circuit means a circuit that is intrinsically safe category i as defined in Australian and New Zealand Standard AS/NZS 60079.11:2011 *Explosive atmospheres—Equipment protection by intrinsic safety ‘i’*.

key statutory function—see clause 135.

light metal alloy means an alloy containing aluminium, magnesium or titanium (or a combination of those metals), but only if:

- (a) those metals make up more than 15% of the weight of the alloy, or
- (b) magnesium and titanium make up more than 6% of the weight of the alloy.

methane includes ethane, propane and similar hydrocarbon gases.

mine safety and health representative has the same meaning as it has in section 37 of the WHS (Mines) Act.

mining supervisor at a mine means an individual nominated to exercise any of the following statutory functions at the mine:

- (a) mining engineering manager,
- (b) undermanager,
- (c) underground mine supervisor,
- (d) deputy,
- (e) quarry manager,
- (f) open cut examiner.

misfire means the complete or partial failure of an explosive to explode as planned.

outbye, in a mine, means in a direction towards the closest entrance of the mine.

polymeric chemical product means any chemical product that is polymerised at a mine other than polyester resin capsules used for strata support.

polymeric process means the injection or application of a polymeric chemical product for the purposes of ventilation or strata control.

principal control plan for a mine means:

- (a) each plan required to be prepared for the mine under clause 26, and
Note. Clause 26 makes requirements with respect to the preparation of health control plans, mechanical engineering control plans, electrical engineering control plans and explosives control plans.
- (b) if the mine is an underground mine—the ventilation control plan for the mine, and
- (c) the emergency plan for the mine.

principal mining hazard—see clause 5.

reclaim tunnel means a tunnel in or under a coal stockpile used for removing coal from the stockpile.

refill station means a place in a mine where compressed air breathing apparatus can be refilled in an emergency.

respirable dust has the same meaning as in the *Guidance on the Interpretation of Workplace Exposure Standards for Airborne Contaminants* published by Safe Work Australia in April 2012 as in force or remade from time to time.

roadway includes any heading, cut-through, crosscut or any part of any heading, cut-through or crosscut.

rope includes cable but not an electrical cable.

scrubber fan means a fan designed to extract dust from the air.

shaft includes a drift.

small gemstone mine means a gemstone mine (including an opal mine) that has less than 5 workers.

statutory function—see clause 136 (1).

subsidence means the deformation or displacement of any part of the ground surface or subsurface strata caused by the extraction of minerals.

underground coal mine means an underground mine that is a coal mine.

underground mine means that part of a mine that is beneath the surface of the earth and includes plant and structures that extend continuously from the surface into that part of the mine but does not include a part of a mine in which highwall mining is being carried out.

ventilation control plan means the ventilation control plan prepared under clause 62.

ventilation split means the parts of the mine ventilated by a particular branch of the ventilation system.

WHS (Mines) Act means the *Work Health and Safety (Mines) Act 2013*.

winding system means any plant (other than a portable winch or plant that is manually operated) that is used in a shaft to lift a person to or from an underground mine or between levels in an underground mine (regardless of whether it is used exclusively for that purpose).

Wiring Rules means Australian and New Zealand Standard AS/NZS 3000:2007 *Electrical installations* (known as the Australian/New Zealand Wiring Rules).

Note. For the purposes of comparison, a number of provisions of this Act contain bracketed notes in headings, identifying equivalent or comparable (though not necessarily identical) provisions of the Mines Chapter of the Model Work Health and Safety Regulations developed under the Intergovernmental Agreement for Regularity and Operational Reform in OHS (the **model WHS Regs**).

- (2) Notes and examples in this Regulation do not form part of this Regulation.

4 Relationship with WHS Regulations

This Regulation is to be construed with, and as if it formed part of, the WHS Regulations and accordingly the following principles apply:

- (a) subject to the WHS (Mines) Act, words and expressions used in this Regulation have the same meanings as in the WHS Regulations, (unless the context or subject-matter otherwise indicates or requires),
- (b) a reference in the WHS Regulations to “this Regulation” includes a reference to the *Work Health and Safety (Mines) Regulation 2014*.

5 Meaning of principal mining hazard (cl 612 model WHS Regs)

In this Regulation, a **principal mining hazard** is any activity, process, procedure, plant, structure, substance, situation or other circumstance relating to the carrying out of mining operations that has a reasonable potential to result in multiple deaths in a single incident or a series of recurring incidents, in relation to any of the following:

- (a) ground or strata failure,
- (b) inundation or inrush of any substance,
- (c) mine shafts and winding systems,
- (d) roads or other vehicle operating areas,
- (e) air quality or dust or other airborne contaminants,
- (f) fire or explosion,
- (g) gas outbursts,
- (h) spontaneous combustion,

- (i) subsidence,
- (j) a hazard identified by the mine operator under clause 34 of the WHS Regulations.

6 Appointment of mine operator (cII 613 (2) and 615 model WHS Regs)

- (1) The mine holder of a mine may appoint a person to be the mine operator only if:
 - (a) the person is conducting a business or undertaking and is appointed in accordance with this clause to carry out mining operations at the mine on behalf of the mine holder, and
 - (b) the person has the skills, knowledge, experience and resources to exercise the functions of the mine operator, and
 - (c) the mine holder authorises the person to have management or control of the mine and to discharge the duties of the mine operator under the WHS laws.
- (2) An appointment of a person to be the mine operator of a mine must:
 - (a) be in writing, and
 - (b) be made in the manner and form required by the regulator, and
 - (c) include a signed statement that the person to be appointed as mine operator agrees to the appointment, and
 - (d) specify:
 - (i) the name and contact details of the mine operator, including postal and business addresses, and
 - (ii) when the appointment takes effect, and
 - (e) describe the location of the mine, including:
 - (i) the boundaries of all extraction and exploration sites, and
 - (ii) land title identification.
- (3) A person (the *prospective mine holder*) who proposes to become the mine holder of a mine may appoint a person to be the mine operator of the mine in accordance with subclauses (1) and (2) and any such appointment takes effect when the prospective mine holder becomes the mine holder of the mine, but only if, at that time, the person is still eligible to be appointed as the mine operator.
- (4) The mine holder must give the mine operator all relevant information held by or under the control of the mine holder that may reasonably be required by the mine operator to discharge the duties imposed on the mine operator under the WHS laws.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

Example. A mine survey plan prepared under clause 122.
- (5) The mine operator of a mine who ceases or intends to cease being the mine operator must ensure, so far as is reasonably practicable, that all records the mine operator has kept under the WHS laws are given to the mine holder of the mine, or the person who is to become the new mine operator, before the new mine operator commences in that role.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or

(b) in the case of a body corporate—\$30,000.

Example. A mine record kept under clause 133.

Note. The new mine operator will be required to keep the records for at least the remainder of the period that the WHS laws require the record to be kept.

7 Notification of mine operator to regulator (cl 616 model WHS Regs)

- (1) The mine holder of a mine must give notice to the regulator in accordance with this clause.
Maximum penalty:
 - (a) in the case of an individual—\$3,600, or
 - (b) in the case of a body corporate—\$18,000.
- (2) If the mine holder of a mine is the mine operator, the mine holder must give the regulator notice of this fact before mining operations commence at the mine.
- (3) If the mine holder of a mine is not the mine operator, the mine holder must give the regulator notice of the appointment of the mine operator of the mine.
- (4) A notice under subclause (2) or (3) must:
 - (a) be in writing, and
 - (b) be made in the manner and form required by the regulator, and
 - (c) describe the location of the mine, including:
 - (i) the boundaries of all extraction sites and exploration sites, and
 - (ii) land title identification.
- (5) A notice under subclause (3) must be accompanied by a copy of the appointment document.
- (6) The mine holder must give written notice to the regulator of any change to the appointment of a mine operator or any termination of the appointment.
- (7) The mine holder must take all reasonable steps to ensure that a notice under subclause (3) or (6) is given before the appointment or the change or termination takes effect.

8 Regulator may direct that one or more mine operators be appointed

- (1) The regulator may, by notice in writing given to a mine holder of a mine, direct the mine holder to:
 - (a) appoint a mine operator for the mine, or
 - (b) appoint more than one mine operator for different parts of the mine, or
 - (c) appoint a single mine operator for both the mine and another mine of the mine holder (but only if the mines are geographically close to one another).
- (2) A mine holder who is given notice under this clause must comply with the notice.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) If more than one mine operator is appointed for different parts of a mine under this clause, each of those parts is taken to be a separate mine for the purposes of this Regulation.
- (4) If a single mine operator is appointed for more than one mine under this clause, those mines are taken to be a single mine for the purposes of this Regulation.

- (5) The regulator is to ensure that the mine holder is given reasonable time to comply with the notice, including reasonable time to address any possible non-compliance with the WHS laws that may result from the mine holder complying with the notice.
- (6) The regulator is to take the following into account in determining whether to give notice under this clause:
 - (a) the objects of the WHS laws,
 - (b) the nature, size and complexity of the mine or mines to which the notice relates,
 - (c) the difficulty for the mine holder or mine operator to exercise his or her functions under the WHS laws,
 - (d) whether the giving of the notice is likely to result in safety management systems that better ensure the health and safety of workers and other persons.

Part 2 Managing risks

Division 1 General requirements

Subdivision 1 Control of risk

9 Management of risks to health and safety (cl 617 model WHS Regs)

- (1) A person conducting a business or undertaking at a mine must manage risks to health and safety associated with mining operations at the mine in accordance with Part 3.1 of the WHS Regulations.
Note. See sections 19, 20 and 21 of the WHS Act as applicable (also see clause 4 of this Regulation and clause 9 of the WHS Regulations).
- (2) A person conducting a business or undertaking at a mine must ensure that a risk assessment is conducted in accordance with this clause by a person who is competent to conduct the particular risk assessment having regard to the nature of the hazard.
Maximum penalty:
 - (a) in the case of an individual—\$3,600, or
 - (b) in the case of a body corporate—\$18,000.
- (3) In conducting a risk assessment, the person must have regard to:
 - (a) the nature of the hazard, and
 - (b) the likelihood of the hazard affecting the health or safety of a person, and
 - (c) the severity of the potential health and safety consequences.
- (4) Nothing in subclause (3) limits the operation of any other requirement to conduct a risk assessment under this Regulation.
Note. A number of specific risk control duties are linked to this clause, see clauses 28–32, 38, 43, 44, 50, 52 and 65–70.
- (5) A person conducting a business or undertaking at a mine (who is the mine operator of the mine or who is a contractor) must keep a record of the following:
 - (a) each risk assessment conducted under this clause and the name and competency of the person who conducted the risk assessment,
 - (b) the control measures implemented to eliminate or minimise any risk that was identified through any such risk assessment.
- (6) A person conducting a business or undertaking at a mine is not required to keep a record of a risk assessment if:
 - (a) the risk assessment is one that an individual worker is required to carry out before commencing a particular task, and
 - (b) the person keeps a record of risk assessments that addresses the overall activity being undertaken (of which the task forms a part) such as risk assessments carried out in relation to the development of the safety management system for the mine or for a principal mining hazard management plan.
- (7) The record kept under subclause (5):
 - (a) if kept by a mine operator—forms part of the safety management system of the mine and the records of the mine, or
 - (b) if kept by a contractor who has prepared a contractor health and safety management plan—forms part of the plan.

10 Review of control measures (cl 618 model WHS Regs)

- (1) A person conducting a business or undertaking at a mine must review and as necessary revise control measures implemented under clause 9 in the following circumstances:
- (a) an audit of the effectiveness of the safety management system for the mine indicates a deficiency in a control measure,
 - (b) a worker is moved from a hazard or assigned to different work in response to a recommendation contained in a health monitoring report provided under Part 3,
 - (c) an incident referred to in clause 128 occurs,
 - (d) any other incident occurs that is required to be notified to the regulator under the WHS laws.

Notes.

- 1 See sections 19, 20 and 21 of the WHS Act as applicable (also see clause 4 of this Regulation and clause 9 of the WHS Regulations).
- 2 This requirement is in addition to the requirement under clause 38 of the WHS Regulations (see clause 33 of the WHS Regulations).
- 3 This clause applies to a mine operator (see section 5 (2) of the WHS (Mines) Act).

- (2) The mine operator of a mine must ensure that a control measure that is the subject of a request by a health and safety representative under clause 38 (4) of the WHS Regulations is reviewed and as necessary revised, whether the request is made to the mine operator or notified to the mine operator under subclause (3) by another person conducting a business or undertaking at the mine.

Notes.

- 1 See sections 19, 20 and 21 of the WHS Act as applicable (also see clause 4 of this Regulation and clause 9 of the WHS Regulations).
- 2 This requirement is in addition to the requirement under clause 38 of the WHS Regulations (see clause 33 of the WHS Regulations).

- (3) A person conducting a business or undertaking at the mine who is not the mine operator of the mine must immediately notify the mine operator of a request made to the person under clause 38 (4) of the WHS Regulations.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (4) A health and safety representative for workers at the mine may request a review of a control measure under clause 38 (4) of the WHS Regulations as if the circumstances referred to in subclause (1) were included as a circumstance in clause 38 (4) (a) of the WHS Regulations.

11 Record of certain reviews of control measures—mine operator (cl 619 model WHS Regs)

- (1) This clause applies to a mine operator at a mine who has, under clause 38 of the WHS Regulations, reviewed a control measure in response to:
- (a) a notifiable incident, or
 - (b) an incident referred to in clause 128.
- (2) The mine operator of a mine must keep a record of the following:
- (a) the causes (or likely causes) of the incident,
 - (b) the work health and safety issues arising from the incident,

- (c) recommendations arising from consideration of the incident (including any recommendation directed at preventing a repeat of that type of incident in the future),
- (d) whether action is required to review or revise a control measure or any part of the safety management system, and any outcome of any such review or revision,
- (e) a summary of any changes to the safety management system for the mine and any affected principal mining hazard management plan or principal control plan for the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

12 Record of certain reviews of control measures—other persons conducting a business or undertaking (cl 620 model WHS Regs)

- (1) This clause applies to a person conducting a business or undertaking at a mine, other than the mine operator, who has, under clause 38 of the WHS Regulations, reviewed a control measure in response to a notifiable incident or an incident referred to in clause 128.
- (2) A person conducting a business or undertaking at a mine must keep a record of the following:
 - (a) the causes (or likely causes) of the incident,
 - (b) the work health and safety issues arising from the incident,
 - (c) recommendations arising from consideration of the incident (including any recommendation directed at preventing a repeat of that type of incident in the future),
 - (d) whether action is required to review or revise a control measure, and any outcome of any such review or revision.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Subdivision 2 Safety management system

13 Duty to establish and implement safety management system (cl 621 model WHS Regs)

- (1) The mine operator of a mine must establish a safety management system for the mine, in accordance with this Subdivision.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The mine operator must implement the safety management system for the mine, so far as is reasonably practicable.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (3) The mine operator must ensure that no mining operations take place during any time at which any part of the safety management system relevant to the mining operations is not established and implemented at the mine in accordance with this subdivision.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (4) The safety management system must form part of any overall management system that is in place at the mine.
- (5) The safety management system must be designed to be used by the mine operator as the primary means of ensuring, so far as is reasonably practicable:
 - (a) the health and safety of workers at the mine, and
 - (b) that the health and safety of other persons is not put at risk from the mine or work carried out as part of mining operations.
- (6) Subject to subclause (7), the safety management system must provide a comprehensive and integrated system for the management of all aspects of risks to health and safety in relation to the operation of the mine.
- (7) The safety management system must comply with subclause (6) to the extent appropriate to the mine having regard to:
 - (a) the nature, complexity and location of the mining operations, and
 - (b) the risks associated with those operations.
- (8) The safety management system must be documented.

Note. A safety management system document is not required to be set out in the same way in which matters are addressed in this Regulation so long as the substantive matters required by this Regulation are properly addressed. It may be set out in one or more documents or may be placed in documents that also deal with other matters. For example a principal mining hazard management plan may be combined with a principal control plan.

14 Content of safety management system (cl 622 model WHS Regs)

- (1) The safety management system document for a mine must set out the following:
 - (a) the mine operator's health and safety policy, including broad aims in relation to the safe operation of the mine,
 - (b) the arrangements for managing risks in accordance with clause 9,
Note. This includes all control measures implemented in accordance with specific requirements under this Regulation (see clause 33 of the WHS Regulations).
 - (c) the systems, procedures, plans and other control measures that will be used to control risks to health and safety associated with mining operations at the mine, including:
 - (i) the principal mining hazard management plans for the mine prepared under Division 2, and
 - (ii) the principal control plans for the mine, and
 - (iii) in the case of an underground mine—the ventilation control plan and ventilation plan prepared for the mine under Subdivision 2 of Division 5, and
 - (iv) in the case of an underground coal mine—the matters required under Subdivision 3 of Division 5,
 - (d) the management structure for the management of work health and safety at the mine, including:
 - (i) arrangements for filling temporary and permanent vacancies, and

- (ii) requirements relating to acting positions in the structure, and
 - (iii) the competency requirements for positions in the structure, and
 - (iv) the positions within the management structure that have responsibility for the management of work health and safety at the mine (including mining supervisors and other persons nominated to exercise a statutory function at the mine) and the names of the relevant persons, and
 - (v) for persons nominated to exercise key statutory functions at the mine, the responsibilities of each such person with regard to the supervision of workers at the mine,
- (e) the arrangements in place, between any persons conducting a business or undertaking at the mine, for consultation, co-operation and the co-ordination of activities in relation to compliance with their duties under the WHS laws,
- (f) if a contractor is working or likely to work at the mine—the control measures that will be used to control risks to health and safety associated with the contractor’s work at the mine, including:
- (i) any contractor health and safety management plan prepared by the contractor under clause 22, and
 - (ii) how any such contractor health and safety management plan will be integrated with the safety management system for the mine, and
 - (iii) the process for assessing health and safety policies and procedures (including competency requirements) of the contractor and integrating them into the safety management system, and
 - (iv) the arrangements for monitoring and evaluating compliance by the contractor with the health and safety requirements of the safety management system,
- (g) the emergency procedures and all other matters in the emergency plan for the mine,
- (h) the procedures and conditions under which persons at the mine or a part of the mine are to be withdrawn to a place of safety and to remain withdrawn as a precautionary measure where a risk to health and safety warrants that withdrawal,
- (i) the arrangements for the provision of information, training and instruction required under clause 39 of the WHS Regulations,
- (j) the induction procedures for workers at the mine,
- (k) the arrangements in place for the supervision needed to protect workers and other persons at the mine from risks to their health and safety from work carried out at the mine,
- (l) arrangements in place for health monitoring under Part 3,
- (m) the consultation and safety role for workers developed under Part 4,
- (n) the procedures for notifiable incident response and investigation at the mine,
- (o) the procedures for the response to, and investigation of, incidents referred to in clause 128,
- (p) the procedures for the review of control measures,
- (q) the procedures for records management for the mine to ensure compliance with the WHS laws,
- (r) the arrangements for the effective communication of relevant information across shifts by workers, supervisors and other relevant persons and the procedures for documenting those communications,

- (s) the arrangements in place for all other monitoring and assessment and regular inspection of the working environment of the mine to be carried out for the purposes of the WHS laws,
Note. See clauses 37 and 85, which deal with inspections.
 - (t) the performance standards under clause 15,
 - (u) the resources that will be applied for the effective implementation and use of the safety management system.
- (2) The safety management system document must:
- (a) contain a level of detail of the matters referred to in subclause (1) that is appropriate to the mine, having regard to:
 - (i) the nature, complexity and location of the mining operations, and
 - (ii) the risks associated with those operations, and
 - (b) so far as is reasonably practicable, be set out and expressed in a way that is readily understandable by persons who use it.
- (3) If any matter referred to in subclause (1) is addressed in a plan or other document prepared under the WHS laws for a mine, it is sufficient if the safety management system for the mine refers to the plan or document.

15 Performance standards and audit (cl 623 model WHS Regs)

The safety management system for a mine must include the following:

- (a) performance standards for measuring the effectiveness of all aspects of the safety management system that:
 - (i) are sufficiently detailed to show how the mine operator will ensure the effectiveness of the safety management system, and
 - (ii) include steps to be taken to continually improve the safety management system,
- (b) the way in which the performance standards are to be met,
- (c) a system for auditing the effectiveness of the safety management system for the mine against the performance standards, including the methods, frequency and results of the audit process.

16 Maintenance (cl 624 model WHS Regs)

The mine operator of a mine must maintain the safety management system for the mine so that the safety management system remains effective.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

17 Review (cl 625 model WHS Regs)

- (1) The mine operator of a mine must ensure that the safety management system for the mine is reviewed within 12 months of the commencement of mining operations at the mine and at least once every 3 years after that to ensure it remains effective.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Note. Regular testing of the emergency plan is also required (see clause 93).

- (2) In addition, if a control measure is revised under clause 38 of the WHS Regulations or clause 10 of this Regulation, the mine operator must ensure that the safety

management system for the mine is reviewed and as necessary revised in relation to all aspects of risk control addressed by the revised control measure.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Subdivision 3 Information to adjoining mine operators

18 Duty to provide information to mine operator of adjoining mine (cl 626 model WHS Regs)

- (1) The mine operator of a mine must, as soon as is reasonably practicable and on request, provide to the mine operator of any adjoining mine any information that the mine operator has about conditions at the mine or any activities or proposed activities at the mine that could create a risk to the health and safety of persons at the adjoining mine.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
 - (b) in the case of a body corporate—\$18,000.
- (2) For the avoidance of doubt, subclause (1) applies to survey plans and mine plans to the extent that they are relevant to the health and safety of persons at the adjoining mine.

Subdivision 4 Contractors

Note. See section 46 of the WHS Act which creates a duty to consult, co-operate and co-ordinate activities.

19 Definition

In this Regulation:

contractor means a contractor who conducts a business or undertaking at a mine other than the following:

- (a) a person who is the mine operator,
- (b) a person who conducts any one or more of the following businesses or undertakings at the mine:
 - (i) a delivery business or undertaking,
 - (ii) an office equipment service business or undertaking,
 - (iii) an office cleaning business or undertaking,
 - (iv) a catering business or undertaking,
- (c) a person, or class of persons, specified in an order of the regulator published in the Gazette.

20 Duty on mine operator to provide information to contractor

The mine operator of a mine must ensure that a contractor who is to carry out mining operations at the mine is given, so far as is reasonably practicable, all relevant information and access to the mine to enable the contractor to identify any risks associated with the proposed operations.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

21 Duty on contractor to provide information to mine operator

A contractor who is to carry out mining operations at a mine must ensure that the mine operator is given, so far as is reasonably practicable, all relevant information to enable the mine operator to identify any risks associated with the proposed operations.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

22 Contractor to prepare plan or use safety management system

(1) A contractor must not carry out mining operations at a mine unless:

- (a) the contractor:
 - (i) has prepared a contractor health and safety management plan in accordance with subclause (2) and has provided a copy of the plan to the mine operator, and
 - (ii) has obtained written notice from the mine operator that the mine operator has reviewed the plan and is of the opinion that the plan is consistent with the safety management system for the mine, and
- (iii) has, so far as is reasonably practicable, implemented the plan, or
- (b) the contractor:
 - (i) has reviewed the relevant parts of the safety management system for the mine, and
 - (ii) has given the mine operator written notice that the contractor has conducted the review and is of the opinion that the safety management system is consistent with the contractor's arrangements to manage the risks to health and safety from mining operations carried out by the contractor at the mine in accordance with clause 9 and any other requirements under the WHS laws that relate to those operations.

Note. Adopting the safety management system for the mine does not reduce the contractor's duty under section 19 of the WHS Act.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

(2) A contractor health and safety management plan:

- (a) must set out the means by which the contractor will manage the risks to health and safety from mining operations carried out by the contractor at the mine in accordance with clause 9 and any other requirements under the WHS laws that relate to those operations, and
- (b) must be designed to be used by the contractor as the primary means of:
 - (i) ensuring, so far as is reasonably practicable, the health and safety of the contractor's workers at the mine, and
 - (ii) ensuring, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the contractor's business or undertaking at the mine, and
- (c) must be documented, and
- (d) must, so far as is reasonably practicable, be set out and expressed in a way that is readily understandable by persons who use it.

Division 2 Principal mining hazard management plans

Subdivision 1 Identification of hazards

23 Identification of principal mining hazards and conduct of risk assessments (cl 627 model WHS Regs)

- (1) The mine operator of a mine must identify all principal mining hazards associated with mining operations at the mine.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator must conduct, in relation to each principal mining hazard identified, a risk assessment that involves a comprehensive and systematic investigation and analysis of all aspects of risk to health and safety associated with the principal mining hazard.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) The mine operator, in conducting a risk assessment under subclause (2), must:
 - (a) use investigation and analysis methods that are appropriate to the principal mining hazard being considered, and
 - (b) consider the principal mining hazard individually and also cumulatively with other hazards at the mine.

Subdivision 2 Principal mining hazard management plans

24 Preparation of principal mining hazard management plan (cl 628 model WHS Regs)

- (1) The mine operator of a mine must prepare a principal mining hazard management plan for each principal mining hazard associated with mining operations at the mine in accordance with this clause and Schedule 1.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) A principal mining hazard management plan must:
 - (a) provide for the management of all aspects of risk control in relation to the principal mining hazard, and
 - (b) so far as is reasonably practicable, be set out and expressed in a way that is readily understandable by persons who use it.
- (3) A principal mining hazard management plan must:
 - (a) describe the nature of the principal mining hazard to which the plan relates, and
 - (b) describe how the principal mining hazard relates to other hazards associated with mining operations at the mine, and
 - (c) describe the analysis methods used in identifying the principal mining hazard to which the plan relates, and
 - (d) include a record of the most recent risk assessment conducted in relation to the principal mining hazard, and

- (e) describe the investigation and analysis methods used in determining the control measures to be implemented, and
 - (f) describe all control measures to be implemented to manage risks to health and safety associated with the principal mining hazard, and
 - (g) describe the arrangements in place for providing the information, training and instruction required by clause 39 of the WHS Regulations in relation to the principal mining hazard, and
 - (h) refer to any design principles, engineering standards and technical standards relied on for control measures for the principal mining hazard, and
 - (i) set out the reasons for adopting or rejecting each control measure considered.
- (4) The mine operator of a mine must consider the following when preparing a principal mining hazard management plan for a principal mining hazard at the mine:
- (a) the matters set out in Schedule 1 in respect of the principal mining hazard, and
 - (b) any other matter relevant to managing the risks associated with the principal mining hazard at the mine.
- (5) The mine operator of a mine at which there is a principal mining hazard must ensure that no mining operations are carried out at the mine that may give rise to the hazard before the principal mining hazard management plan for the hazard has been prepared in accordance with this clause.
- Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

25 Review (cl 629 model WHS Regs)

- (1) The mine operator of a mine must ensure that a principal mining hazard management plan is reviewed and as necessary revised if a control measure specified in the plan is revised under clause 38 of the WHS Regulations or clause 10 of this Regulation.
- Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- Note.** A principal mining hazard management plan is part of the safety management system for a mine (see clause 14 (1) (c) (i)), which must be audited under clause 15, maintained under clause 16 and reviewed and as necessary revised under clause 17.
- (2) If a principal mining hazard management plan is revised, the mine operator must record the revisions, including any revision of a risk assessment, in writing in the plan.
- Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

Division 3 Principal control plans

26 Principal control plans

- (1) The mine operator of a mine must comply with the requirements of this clause and Schedule 2 with respect to principal control plans.
- Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

- (2) A principal control plan must:
- (a) be documented, and
 - (b) so far as is reasonably practicable, be set out and expressed in a way that is readily understandable by persons who use it.

(3) **Health control plan**

The mine operator of a mine must prepare a health control plan for the mine that sets out the means by which the mine operator will manage the risks to health associated with mining operations at the mine in accordance with clause 9.

(4) **Mechanical engineering control plan**

The mine operator of a mine in which there is a risk to health and safety associated with the mechanical aspects of plant and structures at the mine:

- (a) must prepare and implement a mechanical engineering control plan for the mine that sets out the means by which the mine operator will manage those risks in accordance with clause 9, and
- (b) must ensure that the plan is developed and periodically reviewed by a person who is, or who is under the supervision of:
 - (i) the individual nominated to exercise the statutory function of mechanical engineering manager or mechanical engineer at the mine, or
 - (ii) if no person is required to hold either of those positions at the mine—a competent person.

(5) **Electrical engineering control plan**

The mine operator of a mine in which there is a risk to health and safety associated with electricity at the mine:

- (a) must prepare and implement an electrical engineering control plan for the mine that sets out the means by which the mine operator will manage those risks in accordance with clause 9, and
- (b) must ensure that the plan is developed and periodically reviewed by a person who is, or who is under the supervision of:
 - (i) the individual nominated to exercise the statutory functions of electrical engineering manager or electrical engineer at the mine, or
 - (ii) if no person is required to hold either of those positions at the mine—a competent person.

(6) **Explosives control plan**

The mine operator of a mine in which there is a risk to health and safety associated with explosives or explosive precursors at the mine must prepare an explosives control plan for the mine that sets out the means by which the mine operator will manage those risks in accordance with clause 9.

Note. The ventilation control plan and the emergency plan are also principal control plans.

Division 4 Specific control measures—all mines

Subdivision 1 Operational controls

27 Communication between outgoing and incoming shifts (cl 630 model WHS Regs)

The mine operator of a mine at which more than one shift is worked each day must implement a system that ensures that, as soon as is reasonably practicable at the commencement of each shift:

- (a) the supervisor of each outgoing shift provides a written report to the supervisor of the incoming shift, in relation to the state of the mine workings and plant and any other matters that relate to work health or safety, and
- (b) the supervisor of the outgoing shift acknowledges in writing to the supervisor of the incoming shift the accuracy of the report and signs (or electronically signs) the acknowledgment, and
- (c) the supervisor of the incoming shift communicates the content of the report to the workers on the incoming shift, and
- (d) the supervisor of the incoming shift acknowledges in writing to the supervisor of the outgoing shift that the content of the report has been communicated to workers on the incoming shift and the supervisor of the incoming shift signs (or electronically signs) the acknowledgment.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Note. For requirements relating to communication with workers carrying out remote or isolated work at the mine, see clause 48 of the WHS Regulations.

28 Movement of mobile plant (cl 631 model WHS Regs)

- (1) In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with the movement of mobile plant at the mine.
- (2) In managing risks to health and safety associated with the movement of mobile plant at the mine, the mine operator must have regard to all relevant matters including the following:
 - (a) the design, layout, construction and maintenance of all roads and other areas at the mine used by mobile plant (including the drainage system for any such road or area),
 - (b) any risks associated with the terrain or nature of any land adjacent to any such road or area,
 - (c) interactions between mobile plant, especially between large and small mobile plant,
 - (d) interactions between mobile plant and fixed plant or structures,
 - (e) interactions between mobile plant and pedestrians (including the use of pre-movement warnings for mobile plant in mine workings),
 - (f) the operation of remotely controlled mobile plant,
 - (g) the maintenance, testing and inspection of brakes, steering, lights and other safety features of the mobile plant.

Note. Division 7 of Part 5.1 of the WHS Regulations includes requirements relating to mobile plant in all workplaces.

29 Operation of belt conveyors

- (1) In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with the operation of belt conveyors at the mine.
- (2) In managing risks to health and safety associated with the operation of belt conveyors at the mine, the mine operator:
 - (a) must ensure that all belt conveyors are fitted with an emergency stop system, and
 - (b) must have regard to all matters relevant to risks associated with the operation of belt conveyors, and
 - (c) must ensure that belt conveyors are regularly inspected by a competent person, and
 - (d) in the case of an underground coal mine—must ensure that each belt conveyor in operation is inspected by a competent person:
 - (i) at least once every shift, and
 - (ii) in order to detect the presence of any overheating, smouldering or other condition likely to cause a fire—as soon as reasonably practicable after the belt conveyor is shut down for any period.

30 Mining induced seismic activity

- (1) In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with mining induced seismic activity at the mine.
- (2) In managing risks to health and safety associated with mining induced seismic activity at the mine, the mine operator must:
 - (a) ensure, so far as is reasonably practicable, that appropriate equipment and procedures are used to provide for the monitoring, recording, interpretation and analysis of data relating to mining induced seismic activity and the behaviour of the mine in respect of that activity, commensurate with the level of risk, and
 - (b) adopt, so far as is reasonably practicable, an effective seismic monitoring plan which contains trigger or action points to ensure that actions or procedures are undertaken on the occurrence of certain criteria specified in the plan, and
 - (c) ensure, so far as is reasonably practicable, that the design of the mine mitigates the damage arising from the sudden release of energy from the build-up of mining-induced stresses, and
 - (d) ensure, so far as is reasonably practicable, that geotechnical engineered ground support systems are installed and those systems take into account the following:
 - (i) the intended life of the excavation,
 - (ii) the mining-induced stress changes and potential cycles of loading and unloading,
 - (iii) blast vibrations during development mining and from surrounding stopes,
 - (iv) the potential impact of voids and the management of voids,
 - (v) the tolerance for stability problems and rehabilitation,
 - (vi) the potential for rockburst, and
 - (e) ensure, so far as is reasonably practicable, that the ground support system is designed to contain events that have already been recorded or expected by appropriate modelling, allowing for an appropriate factor of safety, and

- (f) ensure that, so far as is reasonably practicable, mining by remote methods is implemented when mining areas at risk of high or unpredictable mining induced seismic activity, and
- (g) ensure that mine design, mining methods and sequences, ground support design and assumptions and modelling are documented and reviewed on an on-going basis and, where necessary, revised.

31 Explosives and explosive precursors

- (1) In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with explosives and explosive precursors at the mine.
- (2) In managing risks to health and safety associated with explosives and explosive precursors at the mine, the mine operator must:
 - (a) ensure that explosives and explosive precursors to be used at the mine are:
 - (i) safe to handle, and
 - (ii) fit for their intended use, and
 - (iii) as insensitive as is reasonably practicable to shock, sparks, friction and the environment in which they will be stored, transported and used, and
 - (iv) so far as is reasonably practicable, simple to store, use, transport and control, and
 - (b) ensure that any dealing with an explosive or explosive precursor at the mine is in compliance with the *Explosives Act 2003* and Australian Standard AS 2187 *Explosives—Storage, transport and use*, and
 - (c) ensure that, in the case of an underground coal mine, shotfiring does not occur in any part of the mine where:
 - (i) the concentration of methane in the general body of the air is greater than 0.5% by volume, or
 - (ii) the amount of incombustible material contained in roadway dust is less than 85%, or
 - (iii) the ventilation is not sufficient to adequately dilute the atmospheric contaminants caused by the shotfiring.

32 Electrical safety

- (1) In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with electricity at the mine.
- (2) In managing risks to health and safety associated with electricity at the mine, the mine operator must ensure:
 - (a) that electrical installation work at the surface is carried out in accordance with the Wiring Rules, and
 - (b) that before a circuit is first energised at the mine, or is first energised following the circuit being recommissioned:
 - (i) the circuit is tested in accordance with the Wiring Rules by a competent person, and
 - (ii) there is a process in place whereby the mine operator (or an individual nominated to exercise the statutory functions of electrical engineering manager or electrical engineer at the mine) can be adequately notified about that testing as soon as is reasonably practicable after the testing occurs, and
 - (c) that adequately rated switchgear is provided that permits power to be safely switched off and safely restored and that does not permit automatic restoration

- of power if there is a risk of electric shock, fire, explosion or unplanned operation of plant, and
- (d) that arrangements are in place for switching the power off or restoring power as part of normal operations in the event of a fault or an emergency, and
 - (e) that, for electrical plant at the mine (other than plant connected, and in close proximity, to a wall socket with a switch):
 - (i) an isolation facility is provided, and
 - (ii) the electrical plant is clearly identified as being isolated from electricity by the facility, and
 - (iii) the facility is clearly identified as the isolator for the electrical plant, and
 - (iv) persons required to work with the electrical plant are competent in the correct use of the facility, and
 - (f) that plans of the mine's electrical installations showing the following matters are kept and maintained as required and are easily accessible by each worker required to access them:
 - (i) the location of each main electricity reticulation line,
 - (ii) the location of all high voltage cables, aerials and switchgear,
 - (iii) the location, rating, identifying label and purpose of each main isolator, substation and high voltage switchboard,
 - (iv) any information required to perform switching programs,
 - (v) the location of all known buried electrical services at the mine,
 - (vi) in the case of a mine (other than an underground mine), the general location of each item of high voltage mobile plant supplied with electricity by a trailing cable,
 - (vii) in the case of an underground mine, the location of each fixed communication device at the mine, and
 - (g) that arrangements are in place so that mobile electrical plant fed by a flexible reeling or trailing cable:
 - (i) is not connected to power if there is an earth fault in the cable, and
 - (ii) has its power interrupted automatically if the continuity of the connection to earth is interrupted, and
 - (h) that arrangements are in place to ensure that mains-powered hand-held electrical equipment used at the mine operates at no more than 250 volts and has an earth leakage of not more than 30 milliamperes sensitivity, and
 - (i) that an effective earth system is provided at the mine to minimise, so far as is reasonably practicable:
 - (i) touch, transfer and step potential, and
 - (ii) the effects of lightning causing the ignition of methane, the ignition of explosives or detonators or the creation of dangerous touch voltages, and
 - (j) that all electrical installations (other than isolated circuits) have a continuous and effective connection to the earth system, and
 - (k) that all isolated circuits comply with section 7.4 of the Wiring Rules, and
 - (l) that the electricity supply to all electrical plant in an underground mine, and all mobile plant fed via flexible reeling or trailing cables in any other mine, is designed so that:
 - (i) the magnitude of earth fault currents to the plant is limited (in order to control step and touch potentials), and

- (ii) so far as is reasonably practicable, the most likely type of electrical fault is a low energy earth fault (in order to minimise the amount of energy released), and
- (m) that the reliability of any electrical safeguards provided to control the risk from both electrical and non-electrical hazards is sufficient for the level of risk being controlled, and
- (n) that short circuit protection and over current protection is provided on all circuits (including sub-circuits), and
- (o) that, except for circuits that are isolated from earth, and have a supply voltage that is not extra-low voltage:
 - (i) earth leakage protection is provided on sub-circuits, and
 - (ii) earth fault protection is provided on all distribution and control circuits.

33 Notification of high risk activities

- (1) The mine operator of a mine must ensure that a high risk activity identified in Schedule 3 and that applies to the mine pursuant to that Schedule is not carried out at or in relation to the mine unless:
 - (a) the mine operator has given notice of the activity to the regulator, and
 - (b) the waiting period has elapsed, being the waiting period specified in Schedule 3 in relation to the activity, subject to any waiver or reduction of that period under subclause (6) or any extension of that period under subclause (7), and
 - (c) the activity is carried out in the manner specified in the notice (or in the notice as amended under subclause (7)).

Note. See section 19 of the WHS Act (also see clause 4 of this Regulation and clause 9 of the WHS Regulations).

- (2) The notice is to be given in the manner and form approved by the regulator and must include the following:
 - (a) the nature of the proposed high risk activity, including particulars of how the activity is to be carried out,
 - (b) the proposed commencement date for the activity,
 - (c) the location of the activity,
 - (d) any information or documents required by Schedule 3 in relation to the activity,
 - (e) the hazards identified as having the potential to arise from the activity,
 - (f) an assessment of the risks associated with the activity,
 - (g) the relevant parts of the safety management system for the mine that describe the systems, procedures, plans and other control measures that will be used to control risks to health and safety associated with the carrying out of the activity.
- (3) The mine operator of a coal mine must ensure that a copy of any notice given to the regulator under this clause (including under subclause (7)) is also given, as soon as is reasonably practicable, to an industry safety and health representative and any site safety and health representative for the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (4) If the regulator is of the opinion that a notice about a proposed high risk activity is inadequate, the regulator may inform the mine operator in writing that the notice is inadequate and that the notice must be resubmitted before the high risk activity can take place.
- (5) A notice is taken to have been given when it is received by the regulator. However, if the regulator informs a mine operator that the notice is inadequate then the notice is taken not to have been given.
- (6) The regulator may waive or reduce the waiting period in relation to a particular high risk activity (at the request of the mine operator or otherwise). Such a waiver or reduction may occur in relation to a coal mine only if the industry safety and health representative who has been notified of the activity is consulted by the regulator in relation to the proposed waiver or reduction.
- (7) A notice given to the regulator under this clause may be amended by the mine operator giving further written notice to the regulator. The giving of any such further notice does not cause the waiting period to start again. However, the regulator may extend the waiting period by a reasonable time to allow the regulator time to consider the notice as amended.
- (8) Nothing in this clause affects any other obligation that a person may have under the WHS laws in relation to the carrying out of a high risk activity.

34 Prohibited uses (cl 632 model WHS Regs)

The mine operator of a mine must take all reasonable steps to ensure an item or substance specified in Column 1 of Schedule 4 is not used in a place or for a purpose that is prohibited or restricted as set out in Column 2 of that Schedule 4 opposite that item or substance.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

35 Closure, suspension or abandonment of mine (cl 633 model WHS Regs)

- (1) If the mine operator of a mine closes the mine, the mine operator must, at the time of the closure, ensure so far as is reasonably practicable that the mine is safe, including by being secure against unauthorised entry by any person.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) If mining activities at a mine are suspended, the mine operator must ensure so far as is reasonably practicable that the mine is safe, including by being secure against unauthorised entry by any person during the period of suspension.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (3) For the purposes of subclause (1) or (2), a mine is not secure against unauthorised entry by a person unless every shaft or outlet to the mine:

- (a) is permanently sealed or filled, or
- (b) is provided with a barrier that is properly maintained.

- (4) The mine operator of a mine must not abandon the mine.
Maximum penalty:
(a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.
- (5) In this clause, *mine operator* of a mine includes the mine holder of the mine.
Note. Section 16 of the WHS Act provides for circumstances in which more than one person has the same duty.

36 Minimum age to work in mine (cl 634 model WHS Regs)

- (1) The mine operator of a mine must take all reasonable steps to ensure that:
(a) a person under the age of 16 years is not engaged to carry out any work in respect of mining activities or operations of a kind referred to in section 7 (2) (a), (b) or (d) of the WHS (Mines) Act, and
(b) a person under the age of 18 years is not engaged to carry out work in an underground mine, unless the person is over the age of 16 years and is an apprentice or trainee under direct supervision in relation to the work.
Maximum penalty:
(a) in the case of an individual—\$3,600, or
(b) in the case of a body corporate—\$18,000.
- (2) The mine operator of an underground mine must ensure that the following records are kept in respect of the mine for each person under the age of 18 years engaged to carry out work at the mine:
(a) the date of birth of the person, and the means by which that date of birth was proven to the satisfaction of the mine operator,
(b) the date on which the person commenced working in the mine.
- (3) In this clause:
direct supervision of a person means the oversight by the supervising person of the work of that person for the purposes of:
(a) directing, demonstrating, monitoring and checking the person's work in a way that is appropriate to the person's level of competency, and
(b) ensuring a capacity to respond in an emergency situation.

37 Inspections

- (1) The mine operator of a mine must ensure that arrangements are in place for the regular inspection of the working environment of the mine for the purposes of the WHS laws.
Maximum penalty:
(a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.
- (2) The mine operator must ensure that, in the making of the arrangements, the following are taken into account:
(a) the procedures for conducting inspections,
(b) when inspections are to be carried out,
(c) the persons competent to conduct inspections,
(d) the number of competent persons required to conduct each inspection.

- (3) The mine operator of a mine is to ensure that a risk assessment is conducted on all areas of the mine when taking account of the matters set out in subclause (2) (a)–(d).
Note. Clause 85 addresses inspection plans for coal mines.

Subdivision 2 Air quality and monitoring

Note. General requirements for managing risks from airborne contaminants and hazardous atmospheres are set out in Divisions 7 and 8 of Part 3.2 of the WHS Regulations (all workplaces, including mines), and Division 5 of this Part sets out additional requirements relating to all underground mines (Subdivision 2) and underground coal mines (Subdivision 3).

38 Temperature and moisture content of air (cl 635 model WHS Regs)

In complying with clause 9, the mine operator of a mine must:

- (a) manage risks to health and safety associated with extremes of either or both the temperature and moisture content of air, and
- (b) if risks associated with extreme heat exist in an underground mine—implement control measures (including monitoring) to manage heat stress in places in the mine where:
 - (i) persons work or travel, and
 - (ii) the wet bulb temperature exceeds 27° Celsius.

39 Ensuring exposure standards for dust not exceeded (cl 636 model WHS Regs)

- (1) The mine operator of a mine must, so far as is reasonably practicable, minimise the exposure of persons at the mine to dust and must ensure that no person at the mine is exposed to 8-hour time-weighted average atmospheric concentrations of airborne dust that exceed:
- (a) for respirable dust—3 milligrams per cubic metre of air, or in the case of a coal mine, 2.5 milligrams per cubic metre of air, or
 - (b) for inhalable dust—10 milligrams per cubic metre of air.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The *Workplace Exposure Standards for Airborne Contaminants* apply in relation to a concentration referred to in subclause (1) as if that concentration were an exposure standard referred to in that document.
- (3) In this clause:
8-hour time-weighted average has the same meaning as in the *Workplace Exposure Standards for Airborne Contaminants*.

40 Monitoring exposure to airborne dust (cl 637 model WHS Regs)

Clause 50 of the WHS Regulations applies to the mine operator of a mine in relation to airborne dust as if the concentration of airborne dust referred to in clause 39 (1) (a) or (b) of this Regulation were an exposure standard to which clause 50 of the WHS Regulations applies.

41 Air monitoring—use of devices (cl 638 model WHS Regs)

The mine operator of a mine who uses air monitoring devices to comply with air monitoring requirements under clause 50 of the WHS Regulations and under this Regulation must ensure that:

- (a) the devices are suitable and effective having regard to:
 - (i) the nature of the monitoring being carried out, and

- (ii) the substance being monitored, and
- (b) the devices are positioned to ensure that they work to best effect.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

42 Air monitoring—signage (cl 639 model WHS Regs)

The mine operator of a mine, in complying with air monitoring requirements under clause 50 of the WHS Regulations and under this Regulation, must ensure that signs are erected at the mine that explain:

- (a) the meaning of any warning produced by an air monitoring device, and
- (b) what persons must do in response to the warning.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

Subdivision 3 Fitness for work

43 Fatigue (cl 640 model WHS Regs)

In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with worker fatigue.

44 Alcohol and drugs (cl 641 model WHS Regs)

- (1) In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with the consumption of alcohol by workers.
- (2) In complying with clause 9, the mine operator of a mine must manage risks to health and safety associated with the use of drugs by workers.

Division 5 Specific control measures—underground mines

Subdivision 1 All underground mines—operational controls

45 Inrush hazards (cl 642 model WHS Regs)

- (1) The mine operator of an underground mine must implement a system for the mine that ensures:
 - (a) the identification of all reasonably foreseeable inrush hazards at the mine, and
 - (b) the determination of the presence and location of an inrush hazard by exploratory bore-holes (including a way of sealing or otherwise controlling a bore-hole to prevent inrush) or other exploratory methods, and
 - (c) communication of the location of identified inrush hazards, including inrush hazards being approached, to all affected persons, and
 - (d) the determination of whether or not an identified inrush hazard is a principal mining hazard, and
 - (e) if an identified inrush hazard is a principal mining hazard—the identification, establishment and maintenance of an inrush control zone for the inrush hazard in accordance with the WHS laws.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or

- (b) in the case of a body corporate—\$30,000.
- (2) An inrush control zone must be located in the vicinity of the inrush hazard and:
 - (a) if the exact location of the inrush hazard is known—extend at least 50 metres from the location of the inrush hazard, or
 - (b) if the exact location of the location of the inrush hazard is not known—extend any greater distance from the suspected location of the inrush hazard determined by a risk assessment conducted under clause 23.
- (3) The mine operator must ensure, in relation to each inrush control zone, that control measures and procedures are implemented to control the risk of inrush.
- (4) The mine operator must ensure that an inrush control zone is not mined before:
 - (a) control measures and procedures have been implemented under subclause (3), and
 - (b) the persons who are to work in the zone have been trained in relation to the implementation of those control measures and procedures.
- (5) If an identified inrush hazard is not at an accessible place at the mine, it is sufficient to control the risk from inrush by:
 - (a) providing adequate separation of solid rock between the mine workings and the assessed worst case position of the potential source of inrush, and
 - (b) complying with the requirements of any applicable principal mining hazard management plan prepared for inrush hazards.
- (6) The mine operator of an underground mine, before connecting any underground mine workings at the mine to any other workings (including disused workings), must:
 - (a) ensure that the other workings are inspected for water, gas and any other circumstance that may be an inrush hazard, and
 - (b) if it is not possible to safely gain access to the workings to be connected—ensure that exploratory bore-holes or other exploratory methods are used to determine the location of the other workings.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

46 Connecting workings (cl 643 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that, if 2 working faces are approaching each other at an underground mine, one of the workings is stopped, made safe and barricaded as soon as is reasonably practicable before the distance separating the faces creates a risk to health or safety.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The mine operator of an underground mine, before connecting any underground mine workings to any other workings (including disused workings) must ensure that the other workings are inspected for water, gas, misfires, butts and any other circumstance that may be a risk to the health or safety of any person at the mine, other than a risk associated with an inrush hazard.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or

- (b) in the case of a body corporate—\$30,000.
- (3) The requirements of subclause (2) are satisfied in circumstances where there is no safe access to the workings to be connected, if the mine operator ensures that, before the workings are connected, exploratory bore holes or other exploratory methods are used to identify circumstances that may be a risk to the health and safety of any person at the mine.

47 Winding systems (cl 644 model WHS Regs)

- (1) The mine operator of an underground mine (other than an opal mine) must ensure that every winding system used or that may be put into use at the mine includes the following:
 - (a) ropes and devices that can withstand all forces reasonably expected to be borne by the ropes and devices,
 - (b) control measures to prevent, so far as is reasonably practicable, any shaft conveyance from overwind, moving at an unsafe speed, excessive acceleration and deceleration and uncontrolled movement,
 - (c) at least 2 braking (or equivalent) systems that ensure the winder remains under control in the event of a failure in any one of the systems,
 - (d) control measures that detect any of the following malfunctions that may be present:
 - (i) slack rope,
 - (ii) rope slip,
 - (iii) unsafe balance rope conditions,
 - (iv) unsafe coiling of rope,
 - (e) control measures that cause the winder to be brought to a safe state when a condition or malfunction referred to in paragraph (d) is detected,
 - (f) warning systems to alert persons at the mine to any emergency in a winding system,
 - (g) if it is reasonably practicable, remote monitoring of the functions of the system,
 - (h) an effective means of communication:
 - (i) between the surface and any shaft conveyance used for carrying persons, and
 - (ii) between the point of control of the winder and the entry to every shaft that is in use,
 - (i) a device that safely attaches ropes to conveyances,
 - (j) in the case of multi-rope winders—devices that load the ropes as uniformly as possible.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator must ensure that the condition and performance of the winding system, and its components, are tested and monitored at intervals to ensure the safe performance of the system.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (3) The mine operator must ensure that energy lockout devices are fitted to all mechanical and electrical plant associated with any shaft at the mine, including any mechanical and electrical plant associated with the operation, maintenance or use of the shaft.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

48 Ropes

The mine operator of an underground mine (other than an opal mine) must ensure that:

- (a) each rope used for the purposes of a winding system or slope haulage is regularly inspected and tested to ensure that it is safe for that use, and
(b) criteria are established to determine when a rope is no longer suitable for any such use.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

49 Operation of shaft conveyances (cl 645 model WHS Regs)

- (1) In this clause:

shaft conveyance means a conveyance that is connected to a winding system.

- (2) The mine operator of an underground mine must ensure that material or plant being carried in a shaft conveyance:

- (a) does not protrude from the shaft conveyance while it is moving so as to contact a wall of the shaft or anything in the shaft, and
(b) is so secured to the shaft conveyance that it cannot leave the shaft conveyance except by being deliberately removed.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (3) The mine operator of an underground mine must ensure that persons being carried in a shaft conveyance are adequately protected from another shaft conveyance in the same shaft, from any material or plant being carried by the other shaft conveyance and from the wall of the shaft or anything in the shaft.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (4) The mine operator of an underground mine must ensure that, if a shaft conveyance that combines a cage and skip is used, material is not carried in the skip while persons are being carried in the cage.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (5) The mine operator of an underground mine must ensure that control measures are implemented to prevent a shaft conveyance from falling down the shaft.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (6) The mine operator of an underground mine must ensure, so far as is reasonably practicable, that control measures are implemented to prevent persons, rock, material and plant from falling down a shaft.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

50 Dust explosion (cl 646 model WHS Regs)

- (1) In complying with clause 9, the mine operator of an underground mine must manage risks to health and safety associated with an explosion associated with dust at the mine.
- (2) In managing risks to health and safety associated with dust at the mine, the mine operator must implement control measures that, so far as is reasonably practicable:
- (a) minimise the generation of potentially explosive dusts, and
 - (b) suppress, collect and remove potentially explosive airborne dusts, and
 - (c) suppress any dust explosion, and
 - (d) restrict the propagation of any dust explosion so that other areas are not affected.

51 Communication systems

The mine operator of an underground mine must maintain a system for effective communication throughout the mine and between the surface and locations at the underground mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

52 Ground and strata support

The mine operator of an underground mine, having an area of unsupported ground or strata that is required to be supported to ensure compliance with clause 9, must ensure that:

- (a) no person enters the area at any time that there is no ground or strata support, and
- (b) no person enters the area to install ground or strata support unless sufficient temporary ground or strata support is provided, and
- (c) plans of the proposed support arrangements for the area are prepared and displayed in locations readily accessible to workers at the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

53 Exhaust emissions and fuel standards

- (1) The mine operator of an underground mine must ensure that:
 - (a) exhaust emissions from diesel engines located underground are regularly sampled and analysed, and
 - (b) the results of that sampling and analysis are compared with the baseline exhaust emissions for the particular diesel engine when the engine was new (or as new), and
 - (c) the engine is regularly maintained so that emissions from the engine are as low as is reasonably practicable, having regard to those baseline exhaust emissions.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator of an underground mine must ensure that any fuel used at the mine:
 - (a) is supplied in accordance with the *Fuel Quality Standards Act 2000* of the Commonwealth and the *Fuel Standard (Automotive Diesel) Determination 2001* made under that Act, or
 - (b) is supplied in accordance with a fuel standard that has been varied by an approval under that Act by the Minister administering that Act.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) The mine operator of an underground mine must ensure that any fuel referred to in subclause (2) (b) or fuel additives used at the mine do not increase the health and safety risks to workers at the mine:

Maximum penalty:

 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
 - (4) Comparison load testing on underground diesel engines at various load points must be used to determine whether a fuel or fuel additive increases the health and safety risks to workers at the mine under subclause (3).

Subdivision 2 All underground mines—air quality and ventilation

Note. General requirements for managing risks from airborne contaminants and hazardous atmospheres are set out in Subdivision 2 of Division 4 of this Part (all mines, including underground mines) and in Divisions 7 and 8 of Part 3.2 of the WHS Regulations (all workplaces, including mines). Subdivision 3 of this Division sets out additional requirements relating to underground coal mines.

54 Air quality—airborne contaminants (cl 647 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that, in any accessible place at the mine, the concentration of any airborne contaminant (including any asphyxiant or flammable gas) is as low as is reasonably practicable.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The mine operator must comply with subclause (1):
 - (a) so far as is reasonably practicable, by means of suppression or the installation of a ventilation or exhaust extraction system, or
 - (b) if this is not reasonably practicable—by some other suitable means.
- (3) This clause does not limit clause 49 of the WHS Regulations or clause 39 of this Regulation.

55 Air quality—minimum standards for ventilated air (cl 648 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that the ventilation system for the mine provides air that is of sufficient volume, velocity and quality to ensure that the general body of air in the areas in which persons work or travel:
 - (a) has a concentration of oxygen that is at least 19.5% by volume under normal atmospheric pressure, and
 - (b) has dust levels that:
 - (i) are as low as is reasonably practicable, and
 - (ii) do not exceed the relevant levels specified in clause 39, and
 - (c) if diesel engines are used underground—has a concentration of diesel emissions (including diesel particulates and any known harmful emissions from diesel engine systems) that is as low as is reasonably practicable.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) In addition to subclause (1), the mine operator of an underground mine must ensure that the ventilation system for the mine provides for air that is of sufficient quality to ensure that the general body of air in the areas in which persons work or travel has a level of contaminants that:
 - (a) is as low as is reasonably practicable, and
 - (b) does not exceed the exposure level for that contaminant specified in the relevant exposure standard referred to in clause 49 of the WHS Regulations.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) This clause does not apply in relation to an area of the mine:
 - (a) that is required to be entered in an emergency or for a mines rescue purpose or to rectify a failure of the ventilation system, and
 - (b) in which all persons are using self-contained breathing apparatus.

56 Air monitoring—air quality (cl 649 model WHS Regs)

The mine operator of an underground mine must ensure that air monitoring is carried out at the mine in the following circumstances:

- (a) in relation to an underground mine other than an underground coal mine—if the mine operator is not certain on reasonable grounds whether or not clause 55 is being complied with,
- (b) in relation to an underground coal mine—at intervals that ensure compliance with clauses 55 (1), 71 and 72.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or

- (b) in the case of a body corporate—\$30,000.

57 Requirements if air quality and air safety standards not met (cl 650 model WHS Regs)

- (1) This clause applies if monitoring reveals that:
 - (a) in an underground mine other than an underground coal mine:
 - (i) the oxygen level specified in clause 55 (1) (a) is not met, or
 - (ii) a dust level referred to in clause 55 (1) (b) (ii) is exceeded, or
 - (iii) an exposure level referred to in clause 55 (2) (b) is exceeded, or
 - (b) in an underground coal mine:
 - (i) the oxygen level specified in clause 55 (1) (a) is not met, or
 - (ii) a dust level referred to in clause 55 (1) (b) (ii) is exceeded, or
 - (iii) an exposure level referred to in clause 55 (2) (b) is exceeded, or
 - (iv) the concentration of methane referred to in clause 72 (1) (b) is exceeded.
- (2) The mine operator of an underground mine must immediately notify any affected workers or other persons at the mine of the relevant circumstances referred to in subclause (1).
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) The mine operator of an underground mine must have the air quality at the mine retested by a competent person as soon as is reasonably practicable.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (4) The mine operator of an underground mine must ensure that procedures are in place to ensure that if the ventilation in any area of the mine is inadequate:
 - (a) the person responsible for that area of the mine is notified, and
 - (b) no person gains access to, or remains in, that area of the mine until adequate ventilation is restored.Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (5) The mine operator of an underground mine satisfies the requirements of subclause (4) if the mine operator ensures that procedures are in place at the mine to require:
 - (a) that the person with responsibility for an area of the mine is informed as soon as is reasonably practicable after a person finds that the ventilation is inadequate in that area, and
 - (b) that the person with responsibility for the affected area:
 - (i) immediately takes such measures as are available to the person to restore adequate ventilation to the area, and
 - (ii) if the mine is an underground coal mine—notifies an individual nominated to exercise the statutory function of ventilation officer at the mine of the matter, and
 - (iii) ensures that no person gains access to, or remains in, that area until adequate ventilation is restored, and

- (iv) provides a written report to the mine operator of the measures that have been taken to restore adequate ventilation.

58 Records of air monitoring (cl 651 model WHS Regs)

- (1) The mine operator of a mine must keep a record of air monitoring carried out at the mine under clause 56.
Maximum penalty:
 - (a) in the case of an individual—\$1,250, or
 - (b) in the case of a body corporate—\$6,000.
- (2) A record of air monitoring must include:
 - (a) the results of the monitoring, and
 - (b) details of the dates, location and frequency of the monitoring, and
 - (c) the sampling method and equipment used.
- (3) A record of air monitoring carried out under this Regulation must be kept for 7 years after the record is made.
- (4) The mine operator must keep a record of air monitoring available for inspection under the WHS laws.
Maximum penalty:
 - (a) in the case of an individual—\$1,250, or
 - (b) in the case of a body corporate—\$6,000.
- (5) The mine operator must keep a record of air monitoring readily accessible to workers and other persons at the mine.
Maximum penalty:
 - (a) in the case of an individual—\$3,600, or
 - (b) in the case of a body corporate—\$18,000.

59 Ventilation system—further requirements (cl 652 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that the air supplied to the ventilation system at the mine is obtained from the purest source available.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator must ensure the following:
 - (a) ventilation circuits at the mine do not allow uncontrolled recirculation of air,
 - (b) plant and structures that regulate airflow are maintained in good working order,
 - (c) unventilated headings are not entered unless:
 - (i) the purpose of entry is to establish ventilation, and
 - (ii) adequate ventilation is provided to the person entering the heading,
 - (d) any auxiliary fan or scrubber fan used at the mine is located and operated in such a manner as to prevent uncontrolled recirculation of air through the fan,
 - (e) any ventilation fan installed at the surface for the purpose of ventilating the underground mine is placed in such a position and under such conditions as to ensure the least amount of damage as possible is caused to the fan in the event of an explosion (or other overpressure event) at the underground mine,

- (f) there is a procedure in place for starting each type of fan, including the main fan,
- (g) no person deals with any main fan or auxiliary fan ventilating an underground mine unless that person is authorised by the mine operator to do so,
- (h) no person starts or stops a fan ventilating an underground mine unless each person likely to be adversely affected by the starting or stopping has been notified.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) The mine operator must ensure that, at every point in areas of the mine where persons work or travel, the ventilation system for the mine provides at least one cubic metre of air per second.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (4) Subclause (3) does not apply in relation to a person entering an unventilated heading to establish ventilation.

60 Monitoring and testing of ventilation system (cl 653 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that the main ventilation fans of the mine are monitored at all times and that an alarm is triggered on the surface if any such fan stops.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The mine operator of an underground mine must monitor and test all aspects of the operation of the ventilation system at intervals that ensure that the system complies with clauses 55 and 59.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (3) The mine operator of a mine must keep a record of all monitoring and testing of the ventilation system at the mine for at least 7 years.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

- (4) The mine operator must keep the record available for inspection under the WHS laws.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

- (5) The mine operator must keep the record readily accessible to workers and other persons at the mine.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
(b) in the case of a body corporate—\$18,000.

61 Modelling to take place before changes to ventilation system

- (1) The mine operator of an underground mine must ensure that before any significant change is made to the ventilation system for the mine, modelling of that change is carried out.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (2) This clause does not apply to an opal mine or to a mine (other than a coal mine) with less than 5 workers.

62 Duty to prepare ventilation control plan (cl 654 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that a ventilation control plan is prepared to provide for the management of all aspects of ventilation at the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (2) The ventilation control plan must describe all control measures implemented in relation to ventilation at the mine.

- (3) Without limiting subclause (2), the ventilation control plan must include a description of the following, if applicable to the mine:

- (a) the design and operation of the ventilation system, including the standards applying to the placement, operation, maintenance and monitoring of ventilation plant,
(b) arrangements for inspecting, monitoring, maintaining and testing the ventilation system,
(c) arrangements for managing risks to health and safety associated with potential inrush hazards and leakage into intake airways of atmospheric contaminants from goaf areas and abandoned sealed workings,
(d) arrangements for managing risks to health and safety associated with intake air travelling across the face of a permanent seal at the mine,
(e) arrangements, in the event of a loss of power supply, for an alternate and independent way of operating the main ventilation fans or for the withdrawal of persons from the mine,
(f) arrangements for managing risks to health and safety associated with ignition sources in the event that the main ventilation fans fail to adequately ventilate the mine,
(g) procedures to ensure the health and safety of persons at the mine in the event of a total or partial ventilation failure,
(h) in the case of an underground coal mine—arrangements for sealing all, or part of, the mine,
(i) procedures for ventilating the parts of the mine where persons work or travel,

- (j) how close ventilation ducting and brattice lines must be to any face,
- (k) arrangements for the installation of ventilation control devices,
- (l) arrangements for signage in relation to regulators, fans and doors at the mine notifying persons that interference with those things by unauthorised persons is prohibited,
- (m) arrangements to prevent workers from inadvertently entering inadequately ventilated parts of the mine,
- (n) starting procedures for fans,
Note. See clause 59 (2) (f).
- (o) modelling of the ventilation processes when a significant change is made to the ventilation arrangements,
Note. See clause 61.
- (p) procedures to be followed in the event of the failure of the main ventilation system including details of the circumstances requiring the safe withdrawal of persons from the mine and the giving of an alarm at the surface if any main ventilation fan stops.

63 Review of ventilation control plan (cl 655 model WHS Regs)

The mine operator of an underground mine must ensure that a ventilation control plan is reviewed and as necessary revised if a control measure specified in the plan is revised under clause 38 of the WHS Regulations or clause 10 of this Regulation.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

64 Ventilation plan (cl 656 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that a plan of the ventilation system for the mine is prepared.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The ventilation plan must show:

- (a) the direction, course and volume of air currents, and
- (b) the position of all air doors, stoppings, fans, regulators and other ventilation plant and structures and ventilation monitoring devices at the mine.

- (3) The mine operator of an underground mine must ensure that the ventilation plan is reviewed and revised as may be necessary.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Subdivision 3 Underground coal mines

Note. General requirements for managing risks from airborne contaminants and hazardous atmospheres are set out in Subdivision 2 of this Division (all underground mines, including underground coal mines), Subdivision 2 of Division 4 of this Part (all mines, including underground mines) and Divisions 7 and 8 of Part 3.2 of the WHS Regulations (all workplaces).

65 Coal dust explosion (cl 657 model WHS Regs)

- (1) In complying with clause 9 in relation to coal dust explosion, the mine operator of an underground coal mine must:
 - (a) limit coal dust generation, including its generation by mining machines, coal crushers and belt conveyors and at belt conveyor transfer points, and
 - (b) suppress, collect and remove airborne coal dust, and
 - (c) limit or remove coal dust accumulation on roadways and other surfaces in mine roadways to ensure that the amount of incombustible material contained in roadway dust at the mine is kept at or above the following concentration levels:
 - (i) for dust in a panel roadway within 200 metres outbye the last completed line of cut-throughs in the panel—85%,
 - (ii) for dust in any 200 metre section of panel roadway within 400 metres of a longwall face—85%,
 - (iii) for dust in a return roadway to which subparagraphs (i) and (ii) do not apply—80%,
 - (iv) for dust in an intake roadway to which subparagraphs (i) and (ii) do not apply—70%, and
 - (d) determine the stone dust or other explosion inhibitor application rate necessary to minimise the risk of a coal dust explosion and apply that rate, and
 - (e) ensure that any stone dust used:
 - (i) is of a type or grade that is suitable for its proposed use, and
 - (ii) is white in colour, and
 - (iii) does not contain more than 3% by mass of free silica, and
 - (iv) has a composition such that at least 95% by mass of the stone dust is finer than 250 micrometres and of that stone dust that is finer than 250 micrometres, at least 60% by mass (and not more than 80% by mass) is finer than 75 micrometres, and
 - (f) restrict the propagation of any coal dust explosion so that other areas are not affected, and
Example. Use of explosion barriers.
 - (g) ensure that explosion barriers are installed and maintained:
 - (i) at roadways within a face zone (other than single entry roadways) that are return roadways or that contain belt conveyors, or
 - (ii) in any other place as required following a risk assessment under clause 9, and
Example. A bleeder return from a goaf.
 - (h) ensure that stone dust or other explosion inhibitor is applied to any new section of roadway so that:
 - (i) no more than 30 metres of the new section is left without an application of stone dust or other explosion inhibitor at any time while the section is being driven, and

- (ii) no part of the new section is left without an application of stone dust or other explosion inhibitor for more than one day (not including any day on which no mining operations occur at the mine).

Note. For general requirements relating to dust explosions in underground mines, see clause 50.

- (2) Subclause (1) (c) does not apply in relation to dust in a roadway if there is sufficient natural make of water associated with the mining operations to prevent a coal dust explosion.
- (3) The mine operator must also establish procedures in relation to the following:
 - (a) the regular inspection, sampling and analysis of roadway dust layers by an individual nominated to exercise the statutory function of roadway dust sampler at the mine,
 - (b) where laboratory analysis of roadway dust is required for incombustible material content, ensuring that the analysis is carried out at a laboratory that is accredited by the National Association of Testing Authorities, Australia in relation to the incombustible material content of roadway dust,
 - (c) the applying of stone dust or another explosion inhibitor for suppressing coal dust explosion,
 - (d) the intervals at which dust sampling and analysis referred to in paragraph (a) must be carried out,
 - (e) the keeping of records of samples taken at the mine that identifies the following in relation to each sample:
 - (i) the date it was taken,
 - (ii) the location at the mine from which it was taken,
 - (iii) the incombustible material content of the sample,
 - (iv) the methods used for analysing the sample,
 - (f) in each case that spot sampling is used—the keeping of records of the reasons why strip sampling was not used,
 - (g) the keeping of a plan of the mine that shows the percentage of incombustible material at various parts of the mine and revising that plan as soon as is reasonably practicable after new sample results are obtained,
 - (h) the treatment of float dust on structures and surfaces that have been dusted with stone dust.
- (4) Sampling referred to in subclause (3) (a):
 - (a) must be carried out by means of strip sampling or, if strip sampling is not reasonably practicable, spot sampling, and

Example. Strip sampling would not be reasonably practicable in the case of a physical impediment such as rib mesh where it would not be possible to get representative and accurate samples using strip sampling.
 - (b) must comply, so far as is reasonably practicable, with the following:
 - (i) samples must be taken over a length of roadway of at least 45 metres, and
 - (ii) samples must not be taken from a depth of more than 5 millimetres, and
 - (iii) the areas from which samples are taken must not be less than 1% of the total area to which the sampling relates, and
 - (iv) samples must not be taken from points at which samples have been taken on a previous occasion, and
 - (v) dust from a floor of a roadway must be sampled and tested separately from any dust on the roof or sides of the roadway if it appears that the

dust on the floor contains a different incombustible content than dust on the roof or sides, and

- (c) must take place at least once every:
 - (i) in the case of a face zone—month, or
 - (ii) in the case of a panel roadway that is within 200 metres of a main roadway—3 months, or
 - (iii) in the case of an outbye return or a belt conveyor roadway—3 months, or
 - (iv) in the case of any other outbye roadway—6 months.
- (5) The mine operator of an underground coal mine must ensure that if a sample indicates that the amount of incombustible material at part of the mine is lower than that required for that part by subclause (1) (c), stone dust or another explosion inhibitor is applied to the part of the mine from which the sample was taken within the following periods, and a record is kept of the date and time of that application:
 - (a) in the case of a sample that failed to meet the requirements of subclause (1) (c) (i) or (ii)—24 hours after the results are determined,
 - (b) in the case of a sample that failed to meet the requirements of subclause (1) (c) (iii) or (iv)—7 days after the results are determined.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (6) In this clause:
- explosion barriers** means:
- (a) water barriers installed in accordance with Schedule 5, or
 - (b) bagged stone dust barriers installed in accordance with the manufacturer's or supplier's guidelines, or
 - (c) barriers installed as a high risk activity.

float dust means coal dust that is finer than 75 micrometres that has been deposited on a surface that has received an application of stone dust or other explosion inhibitor.

intake roadway means a roadway used for the intake of air to mine workings.

return roadway means a roadway used for the removal of air and airborne contaminants from mine workings.

roadway dust means all dust in a roadway including coal dust and stone dust.

spot sampling means taking samples of dust from the floor, roof and sides of a roadway by collecting the dust from a series of spots that:

- (a) are identified on a plan prior to the sampling occurring, and
- (b) range in size from 0.1 square metres to 0.5 square metres, and
- (c) are equally distributed and alternating, and
- (d) do not overlap.

strip sampling means taking samples of dust from the floor, roof and sides of a roadway by collecting the dust from a series of transverse strips that:

- (a) are of equal width, and
- (b) are spaced apart by equal amounts of no more than 5 metres, and
- (c) do not overlap.

66 Spontaneous combustion (cl 658 model WHS Regs)

- (1) In complying with clause 9, the mine operator of an underground coal mine must:
 - (a) manage risks to health and safety associated with spontaneous combustion at the mine, and
 - (b) implement procedures to minimise the potential exposure of persons to airborne contaminants produced by spontaneous combustion, and
 - (c) ensure that gas analysis and sensory indicators of spontaneous combustion are developed specifically for the mine and are used as an internal standard against which the risk of spontaneous combustion is assessed, and
 - (d) ensure written records of all spontaneous combustion events at the mine are maintained for the life of the mine, and that those records specify the characteristics of each event and its location (in accordance with a survey plan of the mine).
- (2) The mine operator of an underground coal mine must ensure that the procedures implemented under subclause (1) (a) and (b) and the gas analysis and sensory indicators developed under subclause (1) (c) are set out in any principal mining hazard management plan relating to spontaneous combustion at the mine.

67 Subsidence

- (1) In complying with clause 9, the mine operator of an underground coal mine must manage risks to health and safety associated with subsidence at the mine.
- (2) Without limiting subclause (1), the mine operator must ensure that:
 - (a) so far as is reasonably practicable, the rate, method, layout, schedule and sequence of mining operations do not put the health and safety of any person at risk from subsidence, and
 - (b) monitoring of subsidence is conducted, including monitoring of its effects on relevant surface and subsurface features, and
 - (c) any investigation of subsidence and any interpretation of subsidence information is carried out only by a competent person, and
 - (d) all subsidence monitoring data is provided to the regulator in the form and at the times required by the regulator, and
 - (e) so far as is reasonably practicable, procedures are implemented for the effective consultation, co-operation and co-ordination of action with respect to subsidence between the mine operator and relevant persons conducting any business or undertaking that is, or is likely to be, affected by subsidence.

68 Sealing

- (1) In complying with clause 9, the mine operator of an underground coal mine must manage risks to health and safety associated with sealing at the mine.
- (2) Without limiting subclause (1), the mine operator must ensure:
 - (a) that consideration is given to the conditions at the place in which the seal is to be installed, including:
 - (i) the presence of flammable gas, and
 - (ii) the potential of ignition sources, and
 - (iii) the possibility of pressure piling behind the seal, and
 - (iv) how long the seal can be expected to remain in the condition in which it is installed, and

- (b) that when the mine, or part of the mine, requires sealing in emergency conditions:
 - (i) the sealing is carried out in accordance with the ventilation control plan and the emergency plan for the mine, and
 - (ii) the risks to health and safety associated with the emergency sealing activities at the mine are managed, and
 - (iii) notification regarding the emergency sealing is provided as soon as is reasonably practicable to the regulator in the manner and form required by the regulator, and
- (c) that the operation of each airlock installed at an entrance to the mine is tested at least once every 12 months (or more if necessary) to ensure its effectiveness (any such testing does not need to include pressure testing), and
- (d) that the connection point for using inertisation equipment and each airlock and seal required to be used with that equipment at the mine are tested at appropriate intervals to ensure that they are fit for use in the event of an emergency and that necessary facilities including water and cleared areas are available for use with that equipment, and
- (e) modelling is conducted at least once every 12 months to ensure that the inertisation locations to be used at the mine are located effectively.

69 Light metal alloys

- (1) In complying with clause 9, the mine operator of an underground coal mine must manage risks to health and safety associated with light metal alloys at the mine.
- (2) Without limiting subclause (1), the mine operator must ensure that, having regard to incensive sparking and the explosive or combustible nature of exposed light metal alloy and accumulated light metal alloy dust:
 - (a) so far as is reasonably practicable, items containing an exposed light metal alloy are not left underground unattended, and
 - (b) measures are implemented in relation to the underground storage, transport, handling and use of items made of, or containing, a light metal alloy, and the removal of those items from the mine.

70 Goaf areas and abandoned or sealed workings

- (1) In complying with clause 9, the mine operator of an underground coal mine must manage risks to health and safety associated with goaf areas and abandoned or sealed workings.
- (2) Without limiting subclause (1), the mine operator must:
 - (a) so far as is reasonably practicable, prevent intake air from travelling across the face of a permanent seal at the mine, and
 - (b) provide ways of minimising the risks of inrush and leakage into intake airways of atmospheric contaminants from goaf areas and abandoned or sealed workings, and
 - (c) determine, by means of risk assessment, the level of monitoring appropriate for those goaf areas and abandoned or sealed workings and implement the monitoring.

71 Ventilation

- (1) The provisions of this clause apply in addition to the provisions of Subdivision 2.

- (2) The mine operator of an underground coal mine must ensure that:
- (a) any main ventilation fan used at the mine is not located underground, and
 - (b) the volume of air passing through each area at which longwall mining operations are taking place must not be less than 4 cubic metres per second for each metre of extracted height, and
 - (c) the percentage by volume of methane in the general body of the air is no greater than 0.25% at any point on the intake side that is 100 metres outbye of:
 - (i) the most inbye completed line of cut-throughs, or
 - (ii) any longwall or shortwall face, but only to the extent that the intake airway is on the intake side of that face (but not if the longwall face is an installation face at which the development of the face, and mining for development coal, have been completed and at which longwall mining has yet to commence), and
 - (d) the ventilation control plan for the mine specifies the minimum quantity of ventilated air required for each part of the mine for power to continue to be supplied to that part of the mine, and
 - (e) if the minimum quantity specified in the ventilation control plan is not supplied at any time to any part of the mine, arrangements are in place to ensure that:
 - (i) immediate action is taken to supply ventilated air to that part of the mine to above that minimum quantity as soon as possible, and
 - (ii) the supply of power to electrical plant (other than electrical plant referred to in clause 78 (4)) is cut off by the quickest means available and will not be restored before the supply of ventilated air is above that minimum quantity, and
 - (f) any auxiliary fan used at the mine is switched off by the quickest means available if the main ventilation system fails, and
 - (g) the mine has a procedure in place for using the following fans as part of the mine's ventilation system:
 - (i) auxiliary fans, including auxiliary fans used for degassing places where methane has accumulated,
 - (ii) booster fans,
 - (iii) scrubber fans, and
 - (h) an effective airlock is provided and maintained at each shaft or outlet that is:
 - (i) used for winding or for the transport of persons or materials, and
 - (ii) connected to the main return of the mine, and
 - (i) every main ventilation fan has a pressure gauge that shows the pressure at all times and a device for indicating at all times, and recording, the volume of air passing through the fan, and
 - (j) each fan installed on the surface, and each booster fan installed below ground, at the mine as part of its ventilation system is fitted with one or more devices that:
 - (i) continuously monitor the working condition of the fan, including its static pressure, and
 - (ii) trigger a visible alarm if there is a significant departure from the fan's normal operating parameters, and
 - (iii) record the date and time that any alarm is triggered or the power supply shut off, and

- (iv) display the results of the monitoring and the visible alarm in a place that is easily accessible by a person whose tasks include checking the condition of the fan.
- (3) The mine operator of an underground coal mine must ensure that in any part of the mine where persons work and travel and where one or more diesel engines are in operation, the ventilation system provides an average volume of air measured across the work or travel area of:
 - (a) if the design of each of the engines is registered under Part 5.3 of the WHS Regulations and a volume of air is specified for the engine under that registration—whichever is the greater of:
 - (i) the total volume of air so specified, or
 - (ii) 3.5 cubic metres per second, or
 - (b) in any other case—whichever is the greater of:
 - (i) 0.06 cubic metres per second for each kilowatt of the total maximum output of those engines, or
 - (ii) 3.5 cubic metres per second.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (4) The mine operator of an underground coal mine must ensure that the effectiveness of the ventilation system and the ventilation control plan for the mine are audited at least once every 12 months by an individual nominated to exercise the statutory function of ventilation auditor at the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (5) The individual conducting the audit under subclause (4) must, as soon as is reasonably practicable after completing the audit, provide a report to the mine operator that sets out in detail:
 - (a) whether or not the ventilation system is being implemented in accordance with the ventilation control plan, and
 - (b) whether or not the ventilation system is achieving the objectives set by the ventilation control plan for the ventilation system, and
 - (c) how effective the system is in meeting the objectives of the ventilation control plan.
- (6) The mine operator of an underground coal mine must ensure that the ventilation plan is reviewed and revised at least once per month and at such other times as may be necessary.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- 72 Control and monitoring of methane levels**
- (1) The mine operator of an underground coal mine must, in addition to complying with clause 55 (1), ensure that the ventilation system for the mine provides for air that is

of sufficient quality to ensure that the general body of air in the areas in which persons work or travel has a concentration of methane that:

- (a) is as low as is reasonably practicable, and
- (b) is not greater than 2% by volume.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The mine operator of an underground coal mine must:

- (a) determine, so far as is reasonably practicable, the location of all hazardous zones at the mine and ensure that workers are aware of those locations, and
- (b) ensure that control measures are implemented in respect of each hazardous zone for the management of risks to health and safety associated with the ignition of methane at the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (3) The mine operator of an underground coal mine must ensure that methane monitoring plant is provided at the mine that:

- (a) has detection heads at points most likely to detect the presence of methane, and
- (b) clearly displays the values of methane concentration at locations visible to persons having responsibility for monitoring those concentrations, and
- (c) gives audible or visible signals and alarms if concentrations go above certain levels, and
- (d) provides for the capture, storage, retrieval and dissemination of information relating to methane concentrations detected, and
- (e) provides for the recording of any events that cause a monitor to give a visible or audible signal or alarm or that cut the supply of power to a place or to plant.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (4) The mine operator of an underground coal mine must ensure that any internal combustion engine that operates in a return airway is equipped with a continuous methane monitor that gives an audible or visible alarm when the concentration of methane in the general body of the air is 1% by volume or greater.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (5) The mine operator of an underground coal mine must ensure that any internal combustion engine that operates in a return airway:

- (a) is withdrawn from the return airway if the concentration of methane in the general body of the air is 1% by volume or greater, but less than 1.25%, or
- (b) is shut down if the concentration of methane in the general body of the air is 1.25% by volume or greater.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or

- (b) in the case of a body corporate—\$30,000.
- (6) The mine operator of an underground coal mine must ensure that each face machine in use at the mine is equipped with a continuous methane monitor that:
 - (a) gives an audible or visible alarm if the concentration of methane in the general body of the air is 1% by volume or greater, and
 - (b) cuts the supply of power to the face machine if the concentration of methane in the general body of the air is 1.25% by volume or greater, and
 - (c) cuts the supply of power to the face machine if the concentration of methane in the air close to the heads of the face machine is 2% by volume or greater (but only if the continuous methane monitor is installed at or close to the heads of the face machine).

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.
- (7) The mine operator of an underground coal mine must ensure that each face at which longwall, shortwall or miniwall mining operations are taking place is equipped with a continuous methane monitor that:
 - (a) is located so that it can accurately detect methane levels where those mining operations are taking place, and
 - (b) cuts the supply of power to the face if the concentration of methane in the general body of the air is 1.25% by volume or greater at the face.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.
- (8) The mine operator of an underground coal mine must ensure, so far as is reasonably practicable, that any continuous methane monitor that malfunctions or fails:
 - (a) gives an audible or visible signal of that malfunction or failure, and
 - (b) cuts the supply of power to any electrical plant that it is monitoring.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

73 Gas monitoring

- (1) The mine operator of an underground coal mine must ensure that:
 - (a) the gas content of the air at the mine is monitored, and
 - (b) a gas content monitoring system is put into place that:
 - (i) identifies the locations at which the gas content of air is to be monitored, and
 - (ii) sets out, for each type of gas being monitored, the *alarm level* (being the gas concentration level at which alarms will be activated or the supply of power will be cut to plant or a place (or both)), and
 - (iii) sets out who is authorised to set or change those alarm levels and how those alarm levels or changes to those alarm levels are to be recorded, and
 - (iv) sets out who is responsible for acknowledging when those alarm levels are reached and recording those acknowledgments, and

- (v) sets out who is responsible for communicating that an alarm level has been reached and initiating action as a result of reaching that level, and
- (vi) sets out response plans to be activated as a result of an alarm level being reached, and
- (vii) sets out how the actions of persons in response to an alarm level being reached (and the identities of those persons) are to be recorded, and
- (c) the gas content monitoring system is documented, and
- (d) an accurate plan of all gas content monitoring plant for the mine is maintained that specifies the locations at which air is monitored, and
- (e) the safety management system for the mine specifies the alarm level for each type of gas, and
- (f) a record is kept of all events where an alarm level is reached, and
- (g) a recording barometer is provided at the surface, and
- (h) all gas content monitoring plant is calibrated and maintained, and
- (i) detection heads of gas content monitoring plant are positioned to maximise the likelihood of detecting the gas being monitored and producing accurate readings, and
- (j) gas monitoring plant has an alternative power supply to ensure, so far as is reasonably practicable, that the plant continues to function if the normal power supply fails, and
- (k) all gas content monitoring plant installed and operated underground is explosion-protected and meets any one or more of the requirements set out in clause 78 (4) (a)–(d), and
- (l) gas content monitoring plant automatically activates an alarm or cuts the supply of power if an alarm level is reached.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator of an underground coal mine must ensure that the following take place continuously at the mine:
- (a) gas content monitoring of the air in the mine that automatically detects and calculates the values and trends of the following:
 - (i) the ratio of carbon monoxide and oxygen deficiency (Graham's Ratio),
 - (ii) the ratio of carbon monoxide and carbon dioxide,
 - (iii) the ability of gas to form an explosive mixture with air, and
 - (b) fixed real time monitoring of the products of combustion in the general body of the air at the return side of each belt conveyor drive head, and
 - (c) gas content time monitoring of the return air at or near any exhaust entries and outbye end of ventilation splits, unsealed goafs and waste workings, and
 - (d) fixed real time monitoring of the concentration of methane by volume in:
 - (i) the general body of the air in each main return airway, and
 - (ii) the general body of the air in each return airway in a ventilation split, and
 - (iii) air passing through a main exhaust fan or a booster fan.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or

- (b) in the case of a body corporate—\$30,000.
- (3) For the purposes of subclause (2) (c), **gas content** means the content in the air of each of the following:
 - (a) methane, carbon monoxide and oxygen,
 - (b) carbon dioxide (but only if the regulator has given a written direction to the mine operator to monitor carbon dioxide for the purposes of this clause).

74 Portable gas detectors

- (1) The mine operator of an underground coal mine must ensure that portable gas detectors that meet the requirements of this clause are provided to each mining supervisor and to any other person identified in the safety management system for the mine as being a person who requires such a detector.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) A portable gas detector provided under this clause must be fit for use in an underground coal mine and must be capable of detecting:
 - (a) methane, carbon monoxide and oxygen, and
 - (b) if the safety management system specifies additional gases (or additional gases in different circumstances)—the gases specified.
- (3) The safety management system for a mine must specify the type of portable gas detector a person is to have if the person is required by that system to be provided with a portable gas detector.

75 Sampling and analysis of exhaust emissions

The mine operator of an underground coal mine must ensure that exhaust emissions from diesel engines located underground are sampled and analysed every 6 months by a person holding a licence under Part 9.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

76 Requirements if air quality or safety standards not met

- (1) The mine operator of an underground coal mine must ensure that the following occurs if any of the following persons suspect or believe that the air quality and air safety standards prescribed under this Regulation are not being met at an accessible place at the mine (the **place of risk**):
 - (a) a worker who forms such a suspicion or belief must immediately inform a mining supervisor at the mine of the suspicion or belief and the mining supervisor must take reasonable steps to inspect the place of risk,
 - (b) a mining supervisor who forms such a suspicion or belief must:
 - (i) immediately direct that all work cease at the place of risk and direct all persons at the place of risk to withdraw from that place, and
 - (ii) implement measures to prevent persons from entering the place of risk, and
 - (iii) take such steps as are available to the mining supervisor to control the risk (including reporting to the mine operator the risk, the steps taken to

control the risk and whether the risk has been eliminated or minimised by any control measure),

- (c) a mine operator who has been informed that the risk has not been eliminated must ensure that such further control measures are implemented as are reasonably practicable to control the risk.

Note. See clause 57, which sets out other requirements when monitoring reveals that air quality or air safety standards are not being met in an underground mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) For the purposes of this clause, an accessible place in an underground coal mine is taken to be a place of risk if:
- (a) the percentage of methane in the general body of air in that place is found to be:
 - (i) greater than 2% by volume, or
 - (ii) if explosion-protected, electrical plant, electrical equipment or internal combustion engines are in use in the place—1.25% by volume or greater, or
 - (iii) if electrical plant (other than explosion-protected plant) is present in the place—greater than 0.25% by volume, or
 - (b) ventilation to the place is below that which is required by the ventilation control plan, or
 - (c) the oxygen level specified in clause 55 (1) (a) is not met, or
 - (d) a dust level referred to in clause 55 (1) (b) (ii) is exceeded, or
 - (e) an exposure level referred to in clause 55 (2) (b) is exceeded.

77 Post incident monitoring

- (1) The mine operator of an underground coal mine must ensure that arrangements are developed and implemented in accordance with this clause for the monitoring, so far as is reasonably practicable, of the atmosphere of the mine following an explosion or fire that leads to the withdrawal of persons from, and the cutting of the supply of power to, all or part of the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) In developing and implementing the arrangements the mine operator must ensure that consideration is given to the following:
- (a) the optimum locations for monitoring points,
 - (b) the gases to be monitored,
 - (c) the design of the post incident monitoring system to increase the likelihood of it being able to continue operating after an incident,
 - (d) the need for and availability of external resources,
 - (e) the regular testing of the arrangements.

78 Use of plant in hazardous zone (explosion-protection required)

- (1) The mine operator of an underground coal mine must ensure that any plant used in a hazardous zone is explosion-protected and, if the plant is electrical plant, has an explosion-protection level suitable for that use.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

Note. See clause 152 which requires any overhauling, repairing or modifying activities that may affect the explosion-protection properties of explosion-protected plant (if carried out at or in respect of an underground coal mine) to be carried out under, and in accordance with, a licence under Part 9.

- (2) Electrical plant has an explosion-protection level suitable for use in a hazardous zone at a coal mine if:

- (a) the plant is manufactured before 1 October 2015, and
(b) the plant was specified in the *Explosion Protected Electrical Apparatus Approvals List* as issued by the Department of Trade and Investment, Regional Infrastructure and Services on 28 May 2012 and continues to be specified in that list as amended from time to time.

- (3) The mine operator of an underground coal mine must ensure that any plant referred to in subclause (2) is overhauled:

- (a) in accordance with the approval given under clause 71 of the *Coal Mines (General) Regulation 1999* in respect of the plant, and
(b) at frequencies not greater than the relevant period specified in Australian Standard AS/NZS 2290.1:2014 *Electrical equipment for coal mines—Introduction, inspection and maintenance—For hazardous areas*.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (4) Electrical plant also has an explosion-protection level suitable for use in a hazardous zone at a coal mine if it meets the requirements of any one or more of the following and has a valid certificate of conformity:

- (a) equipment protection level ‘Ma’, as defined in Australian and New Zealand Standard AS/NZS 60079.0:2012 *Explosive atmospheres—Equipment—General requirements*,
(b) intrinsically safe category ‘Ex ia’, as defined in Australian and New Zealand Standard AS/NZS 60079.11:2011 *Explosive atmospheres—Equipment protection by intrinsic safety ‘i’*,
(c) encapsulated level of protection ‘Ex ma’, as defined in Australian and New Zealand Standard AS/NZS 60079.18:2011 *Explosive atmospheres—Equipment protection by encapsulation ‘m’*,
(d) for gas detectors and monitors—special protection ‘Ex s’ (for Zone 0), as defined in Australian and New Zealand Standard AS/NZS 1826:2008 *Electrical equipment for explosive gas atmospheres—Special protection—Type of protection ‘s’*,
(e) for caplights, explosion-protected for gas group ‘I’, as defined in:
(i) Australian and New Zealand Standard AS/NZS 60079.35.1:2011 *Explosive atmospheres—Caplights for use in mines susceptible to firedamp—General requirements—Construction and testing in relation to the risk of explosion*, or

- (ii) Australian and New Zealand Standard AS/NZS 62013.1:2001 *Caplights for use in mines susceptible to firedamp—General requirements—Construction and testing in relation to the risk of explosion*,
but only if the concentration of methane in the general body of the air in the hazardous zone is less than 2% by volume.
- (5) Electrical plant (other than plant referred to in subclause (2) or (4)) that meets the requirements of any one or more of the following and has a valid certificate of conformity has an explosion-protection level suitable for use in a hazardous zone in a coal mine, but only if the concentration of methane in the general body of the air in that zone is less than 1.25% by volume:
 - (a) equipment protection level 'Mb', as defined in Australian and New Zealand Standard AS/NZS 60079.0:2012 *Explosive atmospheres—Equipment—General requirements*,
 - (b) explosion-protection of a type suitable for Group I, Mines susceptible to firedamp as defined in Australian and New Zealand Standard AS/NZS 60079.0:2012 *Explosive atmospheres—Equipment—General requirements*,
 - (c) plant that is intrinsically safe, Group II associated apparatus, as defined in Australian and New Zealand Standard AS/NZS 60079.0:2012 *Explosive atmospheres—Equipment—General requirements*.
- (6) A certificate of conformity in relation to restrained plugs and receptacles is not valid for the purposes of this clause unless it attests to conformity with:
 - (a) Australian and New Zealand Standard AS/NZS 1299:2009 *Electrical equipment for mines and quarries—Explosion-protected three-phase restrained plugs and receptacles for working voltages up to and including 3.3 kV*, or
 - (b) Australian Standard AS 1299—1993 *Electrical equipment for coal mines—Flameproof restrained plugs and receptacles*.
- (7) A person (the **purchaser**) who conducts a business or undertaking at an underground coal mine must not purchase explosion-protected plant from another person (the **supplier**) unless the supplier provides the purchaser with the following:
 - (a) if the design of the plant is required to be registered under Part 5.3 of the WHS Regulations if the plant is to be used in an underground coal mine—evidence of that registration and drawings of the plant that:
 - (i) identify all features of the plant that form part of the explosion-protected properties, and
 - (ii) give sufficient details so that the plant can be verified as matching the drawings and the design that was registered, and
 - (iii) are copies of the drawings used for the purposes of obtaining the registration,
 - (b) if the plant has a valid certificate of conformity—a copy of the certificate and drawings of the plant that:
 - (i) identify all features of the plant that form part of the explosion-protected properties, and
 - (ii) give sufficient details so that the plant can be verified as matching the drawings and the certificate of conformity, and
 - (iii) are traceable to the drawings used in testing and assessment for obtaining the certificate of conformity,

- (c) if the plant is plant referred to in subclause (2)—evidence that it is such plant and any documents and drawings identified on the website of the regulator in relation to the plant,
- (d) the information required to be given by the supplier under section 25 (4) of the WHS Act.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (8) A reference in this clause to an Australian Standard or an Australian and New Zealand Standard includes a reference to the following:
- (a) an Australian and New Zealand Standard that replaces that Standard, and
 - (b) any International Electrotechnical Commission Standard that is equivalent to that Standard (or that the regulator has declared by notice published in the Gazette to be equivalent to that Standard).
- (9) In this clause:
- certificate of conformity** means a certificate of conformity issued under:
- (a) the **ANZEx scheme** (being the Australian/New Zealand certification scheme for explosion-protected electrical equipment), or
 - (b) the **AusEx scheme** (being the Standards Australia Certification and ExMark Licensing Scheme), or
 - (c) the **IECEX scheme** (being the International Electrotechnical Commission System for Certification to Standards Relating to Equipment for use in Explosive Atmospheres).
- plant** does not include cables.

79 Exceptions to explosion-protection requirements

- (1) Despite clause 78 (1), portable electrical plant may be used in the hazardous zone of an underground coal mine if:
- (a) the concentration of methane in the general body of the air is 0.5% by volume or less, and
 - (b) the plant is powered by internal batteries, and
 - (c) the temperature of any surface of any component or part of the plant is not greater than:
 - (i) 150° Celsius, or
 - (ii) if the surface is wholly internal to the plant and the plant has a level of ingress protection sufficient to prevent coal dust coming into contact with the surface—450° Celsius, and
 - (d) the plant does not in normal operation produce hot surfaces or sparks that could ignite methane, and
 - (e) the mine operator has implemented control measures to manage the risk of the plant becoming an ignition source.
- (2) Despite clause 78 (1), electrical equipment associated with hot work may be used in the hazardous zone of an underground coal mine if the mine operator has complied with the requirements of clause 33 (Notification of high risk activities).
- (3) Despite clause 78 (1), insulation test instruments may be used in the hazardous zone of an underground coal mine if the instruments are used in accordance with the procedures for using those instruments developed under the electrical engineering control plan for the mine.

80 Use of cables in hazardous zone

- (1) The mine operator of an underground coal mine must ensure that no cable is used in a hazardous zone at the mine except as provided by this clause.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

Note. See clause 152 which requires any repairing of flexible reeling, feeding or trailing cables for use in a hazardous zone of an underground coal mine to be carried out under, and in accordance with, a licence under Part 9.

- (2) A cable may be used in a hazardous zone where the concentration of methane in the general body of the air is 1.25% by volume or greater only if:
- (a) all circuits in the cable are intrinsically safe category 'Ex ia' as defined in Australian and New Zealand Standard AS/NZS 60079.11:2011 *Explosive atmospheres—Equipment protection by intrinsic safety 'i'*, and
- (b) the mine operator, in consultation with the individual nominated to exercise the statutory functions of electrical engineering manager at the mine, is satisfied that the cable is fit for use in the hazardous zone.
- (3) A cable may be used in a hazardous zone where the concentration of methane in the general body of the air is less than 1.25% by volume only if the cable:
- (a) is a cable referred to in subclause (2), or
- (b) is a cable (other than a reeling or trailing cable) that conforms with Australian and New Zealand Standard AS/NZS 1972:2006 *Electric cables—Underground coal mines—Other than reeling and trailing*, or
- (c) is a reeling or trailing cable that conforms with Australian and New Zealand Standard AS/NZS 1802:2003 *Electric cables—Reeling and trailing—For underground coal mining purposes*, or
- (d) is a cable that is determined as fit for use by the mine operator, in consultation with the individual nominated to exercise the statutory functions of electrical engineering manager at the mine, and is to be used solely:
- (i) as part of a circuit that is an intrinsically safe circuit, or
- (ii) as an integral part of a cap lamp.

81 Internal combustion engines

The mine operator of an underground coal mine must ensure that no internal combustion engine is permitted:

- (a) at the mine, unless the engine is explosion-protected or fire-protected, or
(b) in any hazardous zone at the mine, unless the engine is explosion-protected.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

Note. Clause 34 and Schedule 4 prevent the use of internal combustion engines underground unless the engine is a compression ignition engine.

82 Electrical safety—testing circuits in hazardous zone

- (1) The mine operator of an underground coal mine must ensure that any testing carried out on any electrical circuit in a hazardous zone is carried out in accordance with this clause.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) Any such testing must not reduce the level of safety of any explosion-protected properties of any plant.
- (3) The person conducting any such testing must be a competent person with respect to maintaining electrical equipment in a hazardous zone.
- (4) Any test equipment used to test an intrinsically safe circuit must:
 - (a) comply with any requirements set out in any applicable certificate of conformity for the circuit being tested, or
 - (b) be portable electrical plant that may be used in a hazardous zone under clause 79 (1).
- (5) In this clause:
certificate of conformity has the same meaning as in clause 78.

83 Electrical safety—static charges

The mine operator of an underground coal mine must ensure that any compressed air equipment, hose or pipe is electrically bonded to earth if it has been risk assessed under clause 9 as likely to develop static electrical charges capable of causing an electric shock to a person or a spark during operation.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

84 Persons required to be on duty

The mine operator of an underground coal mine must ensure the following:

- (a) that no extraction of coal or mineral occurs in a production area at the mine unless a mining supervisor for the mine is present in that area,
- (b) that an individual nominated to exercise the statutory function of undermanager or mining engineering manager at the mine is on duty at all times during which:
 - (i) there are more than 15 persons underground, or
 - (ii) secondary extraction is occurring at the mine, or
 - (iii) major changes are being made to the ventilation system for the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Subdivision 4 All coal mines

85 Inspection plan

- (1) The mine operator of a coal mine must ensure that an inspection plan for the mine is prepared in accordance with this clause and that inspections of the mine are carried out in accordance with this clause and that plan.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator of a coal mine must ensure that as part of the inspection plan for the mine:
- (a) the mine is divided into inspection areas, each being an area of a size no larger than that which can be reasonably inspected by a competent person within the time allocated to that person, and
 - (b) a production area is identified in respect of each area of the mine at which coal or mineral is extracted that includes:
 - (i) in the case of an underground coal mine—the site of that extraction, any part of the mine within 100 metres of the site and, if the production area would be wholly within a hazardous zone, such other parts of the mine as are necessary to ensure that the production area starts outbye of the hazardous zone, or
 - (ii) in the case of a coal mine other than an underground coal mine—areas where drilling is carried out, or where haul roads, dumps or stockpiles are being used, and
 - (c) in the case of an underground coal mine—any place that has been a production area but is not to be treated as such because of a temporary (at least one shift) cessation in the extraction of coal or mineral is clearly identified as such, and
 - (d) any boundary of a production area that crosses a roadway on which persons normally travel is clearly marked as such.
- (3) The mine operator of a coal mine must ensure that the inspection plan for the mine makes provision for the following:
- (a) the means by which any concerns raised around the size of production areas, and the ability of those responsible to adequately perform required inspections, are to be resolved,
 - (b) how a concern arising from an inspection (a *safety concern*) is to be brought to the attention of:
 - (i) persons whose health or safety may be affected, and
 - (ii) the *relevant manager* (being the person within the management structure of the mine whose area of responsibility and accountability includes the subject matter of the safety concern),
 - (c) how a *senior manager* (being a person more senior in the management structure of the mine than the relevant manager) is to be notified of the remedial action taken (or not taken) by the relevant manager following a safety concern being raised,
 - (d) how concerns are to be brought to the attention of the senior manager about the remedial action taken (or not taken) by the relevant manager following a safety concern being raised,

- (e) in the case of an underground coal mine, the action that may be taken as a result of an inspection including:
 - (i) making something safe, or
 - (ii) withdrawing persons from an unsafe part of the mine or preventing the entry of persons to that part,
 - (f) the recording of the results of inspections carried out under the plan,
 - (g) the regular and timely review by relevant managers of reports of inspections and other information provided by persons carrying out inspections.
- (4) An inspection of each production area at a coal mine (other than an underground coal mine) at which mining operations are taking place must be carried out under the inspection plan at least once every shift.
- (5) In the case of an underground coal mine at which mining operations are taking place, the following must be carried out under the inspection plan:
- (a) inspection of all production areas, including, but not limited to:
 - (i) inspection for the presence of flammable and toxic gas before connecting power to any plant, and
 - (ii) inspection, at least once every 2 hours, of each face area where coal or mineral is extracted, and
 - (iii) inspection, at least once every 5 hours, of all other places where persons work, and
 - (iv) inspection, at least once every 8 hours, of all safely accessible places in the production area,
 - (b) inspection of places other than production areas, including, but not limited to:
 - (i) inspection at least once every 8 hours of all places where persons work, and
 - (ii) inspection at least once every 24 hours of all roadways where persons regularly travel, and
 - (iii) inspection at least once every 7 days of all safely accessible places (including all safely accessible roadways, goaf edges, shafts and drifts),
 - (c) inspection for the presence of flammable gas prior to the supply of electric power to any underground part of the mine,
 - (d) inspection for the presence of flammable gas or contaminants in the general body of the air,
 - (e) inspection of the adequacy of the following:
 - (i) ventilation,
 - (ii) the process of making roadway dust inert,
 - (iii) emergency, first aid and fire fighting equipment,
 - (f) inspection of the condition of the following:
 - (i) ventilation control devices,
 - (ii) auxiliary fans,
 - (iii) surfaces over which persons may travel or vehicles may be driven,
 - (g) inspection of the support for the excavation,
 - (h) inspection of the stability of roadways in the excavation,
 - (i) inspection for indications of heating of coal or other material or fire,
 - (j) inspection for abnormal water inflow,
 - (k) inspection for plant malfunction,

- (l) inspection of the functioning of communication and monitoring systems,
 - (m) inspection for excessive accumulation of mud, water, rock or coal,
 - (n) inspection of environmental conditions.
- (6) Inspections may be required more frequently than specified in subclause (4) or (5) dependent on the risks present at the particular mine.
- (7) The inspection of all safely accessible parts of each inspection area at a coal mine is to be carried out by:
- (a) in the case of the inspection of an underground coal mine (other than a belt conveyor at the underground coal mine) or a production area (or former production area) of a coal mine that is not an underground coal mine—a mining supervisor at the mine, or
Note. Clause 29 sets out requirements in relation to the inspection of belt conveyors.
 - (b) in any other case—a competent person.
- (8) The mine operator of an underground coal mine must ensure that no person goes underground at the mine after mining operations at the mine have ceased and all workers are withdrawn from the mine until each inspection area of the mine has been inspected in accordance with this clause.
Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (9) The mine operator of a coal mine must ensure that no person enters a production area after the regular routine of inspections for that area have been interrupted until the production area has been inspected in accordance with this clause.
Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (10) Nothing in subclause (8) or (9) prevents a person going underground or entering an area to carry out an inspection in accordance with this clause.
- (11) The mine operator of a coal mine must ensure that workers at the mine are permitted to examine any place where they will work for risks prior to commencing work and during the course of their work.
Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

86 Sampling and analysis of airborne dust

The mine operator of a coal mine must ensure that sampling and analysis of airborne dust at the mine is carried out by a person who is independent of mining operations at the mine:

- (a) in accordance with Schedule 6, and
- (b) at such other times as may be necessary.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

87 Ventilation and belt conveyor components to be FRAS

- (1) This clause applies to the following items of plant:
 - (a) any component of the ventilation system of an underground coal mine,
 - (b) conveyor belting and conveyor accessories used at an underground coal mine or in a reclaim tunnel at a coal mine.
- (2) The regulator may, by notice published in the Gazette, identify an item of plant to which this clause applies and specify the testing and certification process for determining whether the item of plant is fire resistant anti-static (**FRAS**).
- (3) The mine operator of a coal mine must ensure that an item of plant specified in a notice under this clause is not used at the mine unless it has been tested and certified in accordance with the notice.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Division 6 Emergency management

Note. The requirements of this Division are in addition to the requirements in relation to emergency plans under Division 4 of Part 3.2 of the WHS Regulations.

Subdivision 1 Emergency plans for all mines

88 Duty to prepare emergency plan (cl 664 model WHS Regs)

- (1) The mine operator of a mine must prepare an emergency plan for the mine in accordance with this Subdivision.

Maximum penalty:

 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) In addition to the matters required by clause 43 (1) of the WHS Regulations, the emergency plan must:
 - (a) address all aspects of emergency response, including by ensuring:
 - (i) the establishment of a system that enables all persons at the mine to be promptly located, and
 - (ii) that a record of all persons who are underground at a mine (other than an opal mine) at any given time and each person's likely location is accurately maintained and is readily available in an emergency, and
 - (iii) the provision of adequate rescue equipment, and
 - (iv) that an adequate number of persons trained in the use of rescue equipment are available to respond effectively to the emergency if a person is working at the mine, and
 - (v) the provision of adequate patient transport if a person is working at a mine, and
 - (vi) the provision of appropriate transportation (or suitable means of exit by walking) for persons at risk in the case of an emergency to a place of safety including during an emergency evacuation, and
 - (vii) arrangements are in place for emergency sealing of all or part of an underground coal mine, and
 - (b) include a statement of potential triggers for the activation of the plan, and
 - (c) include all matters specified in Schedule 7, and

- (d) so far as is reasonably practicable, be set out and expressed in a way that is readily understandable by persons who use it.
- (3) The emergency plan for a mine must comply with the matters in subclause (2) (a)–(c) and contain an appropriate level of detail about those matters to the extent that those matters are applicable to the mine having regard to:
 - (a) the nature, complexity and location of the mining operations, and
 - (b) the risks associated with those operations.
- (4) The emergency plan for a mine must contain an appropriate level of detail about the matters set out in subclause (2) (a)–(c) having regard to all relevant matters including:
 - (a) the nature, complexity and location of the mining operations, and
 - (b) the risks associated with those operations.
- (5) An emergency plan under this Regulation and the WHS Regulations may, in the case of a mine, be referred to as an emergency response control plan.

89 Consultation in preparation of emergency plan (cl 665 model WHS Regs)

- (1) In preparing an emergency plan, the mine operator of a coal mine or an underground mine must, so far as is reasonably practicable, consult with:
 - (a) the primary emergency services with responsibility for the area in which the mine is located, and
 - (b) in the case of a coal mine—any other emergency service organisation, including the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*, that may be required to participate in implementing the emergency plan, and
 - (c) in relation to the principal mining hazards that may cause or contribute to an incident that may adversely affect the health and safety of persons in the area surrounding the mine—the local authority for the local authority area in which the mine is located.
- (2) The mine operator must ensure that the emergency plan addresses any recommendation made by the emergency service organisations consulted under subclause (1) in relation to:
 - (a) the testing of the emergency plan, including the way in which it will be tested, the frequency of testing and whether or not the emergency service organisations will participate in the testing, and
 - (b) what incidents or events at the mine should be notified to the emergency service organisations.
- (3) The mine operator must have regard to any other recommendation or advice given by a person consulted under subclause (1).
- (4) This clause does not apply to an underground mine (other than a coal mine) having less than 5 workers or an opal mine.
- (5) In this clause:
local authority means:
 - (a) if the mine is located on land in a local government area—the council within the meaning of the *Local Government Act 1993*, or
 - (b) if the mine is located on land in the Western Division—the Western Lands Commissioner.

90 Implementation of emergency plan (cl 666 model WHS Regs)

The mine operator of a mine must immediately implement the emergency plan for the mine in the event of an emergency.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

91 Copies to be kept and provided (cl 667 model WHS Regs)

- (1) The mine operator of a mine must keep a copy of the emergency plan for the mine at the mine.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

- (2) The mine operator must ensure that a copy of the emergency plan is available on request to any emergency service organisation consulted under clause 89.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

92 Resources for emergency plan (cl 668 model WHS Regs)

The mine operator of a mine must ensure that:

- (a) all resources, including rescue equipment, specified in the emergency plan for the mine are provided in accordance with the plan, and
- (b) all resources required for the effective implementation of the emergency plan are provided, and
- (c) all plant and equipment, including communications systems and rescue equipment, specified in the emergency plan is regularly inspected and maintained in good working order.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

93 Testing of emergency plan (cl 669 model WHS Regs)

The mine operator of a mine must test the emergency plan for the mine at intervals of no more than 12 months and as soon as is reasonably practicable after there has been a significant revision to the plan. Any such test is to have regard to the recommendations made by the emergency service organisations consulted under clause 89 in preparing the plan.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Note. More frequent testing may be required—see clause 43 of the WHS Regulations.

94 Review (cl 670 model WHS Regs)

- (1) The mine operator of a mine must ensure that the emergency plan for the mine is reviewed and as necessary revised:

- (a) at intervals of no more than 12 months, and

- (b) as soon as is reasonably practicable after there has been a significant change to the mining operations at the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) A review under subclause (1) must include a review of the training of workers under clause 95 and a review of the testing of the plan.
- (3) If a control measure is revised under clause 38 of the WHS Regulations or clause 10 of this Regulation, the mine operator of the mine must ensure that the emergency plan is reviewed and as necessary revised in relation to all aspects of risk control addressed by the revised control measure.
- Maximum penalty:
- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

95 Training of workers

The mine operator of a mine is to ensure that workers at the mine are trained in relation to the emergency plan:

- (a) before commencing work at the mine, and
- (b) as soon as is reasonably practicable after any significant revision to the plan.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Subdivision 2 Underground mines

96 Emergency exits (cl 671 model WHS Regs)

- (1) The mine operator of an underground mine must ensure that all parts of the mine have at least 2 exits to the surface that are trafficable by persons and that comply with subclauses (2) and (3).

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) Each exit must:

- (a) be accessible from each level in the mine in which coal extraction or stopping operations are being carried out, and
- (b) allow for the passage of rescue persons and rescue equipment, and
- (c) be marked or signposted so that it can be readily located in an emergency, and
- (d) be maintained so that it remains effective.

- (3) In the case of an underground coal mine:

- (a) the exits must be located so as to ensure, so far as is reasonably practicable, that an incident or event that occurs in relation to one exit that prevents the exit from being used for the purpose of escape from the mine does not prevent persons from using the other exit to escape, and
- (b) at least one of the exits must:
 - (i) be an intake airway or a combination of adjacent intake airways, and

- (ii) be designated as the primary exit, and
 - (iii) be suitable for use by a vehicle.
- (4) The mine operator of a mine is not required to comply with subclause (1) in either of the following circumstances if the mine operator ensures that the mine has at least one trafficable exit to the surface that complies with subclause (2):
 - (a) a single entry drive or shaft is being developed,
 - (b) the most distant area of the mine is no more than 250 metres from the mine entrance or a second exit.
- (5) The mine operator of an underground mine must ensure that:
 - (a) the risk associated with fire affecting an exit is managed so far as is reasonably practicable, and
 - (b) fire fighting equipment is located on or near any equipment installed in the primary exit and is appropriate for its proposed use, and
 - (c) workers who may need to use exits are provided with sufficient training and instruction so as to be made familiar with those exits, and
 - (d) the marking of exit paths is such that persons can, so far as is reasonably practicable, safely travel on them in an emergency including through conditions of reduced visibility or irrespirable or unsafe atmospheres.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

97 Safe escape and refuge (cl 672 model WHS Regs)

- (1) The mine operator of an underground mine must provide adequate means of communicating with all affected persons when the emergency plan for the mine is implemented.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Example. An alarm system.

- (2) The mine operator of an underground mine must ensure, so far as is reasonably practicable, that the communication systems for the underground mine enables communication to be established:
 - (a) between persons underground in different parts of the mine, and
 - (b) between persons underground and persons at the surface in the case of an emergency, and
 - (c) across strategic locations at the mine, being places critical for communicating with persons in an emergency (such as refuge chambers, caches, refill stations, change-over stations and escape routes), and
 - (d) from places unaffected by hazards associated with an emergency to those that are affected.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (3) The mine operator of an underground mine must ensure that any power operated communication equipment used as part of a communication system for the mine

(including the power supplied to that equipment) incorporates a fail safe or back up power supply for the critical parts of the system.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (4) The mine operator of an underground coal mine must ensure that any power operated communication equipment used as part of a communication system that is installed underground (unless installed in a drift or shaft being driven from the surface in material other than coal) must be suitable for use in a place where the concentration of methane in the general body of the air is greater than 2% by volume.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (5) The mine operator of an underground mine must provide adequate means of escape that:

- (a) in the case of an underground coal mine—enable persons to safely reach an exit, or
- (b) in the case of other underground mines—enable persons to safely reach an exit or a refuge chamber,

including through conditions of reduced visibility or irrespirable or unsafe atmospheres.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (6) The mine operator of an underground coal mine must, in conjunction with providing an adequate means of escape, ensure that an overall emergency escape to the surface strategy is developed for the mine that takes into account the following:

- (a) the distance persons will need to travel in order to reach the surface, and
- (b) the rate at which persons will need to travel in order to reach the surface safely, and
- (c) the location and size of each refill station, cache or change-over station, and
- (d) the provision of water and communications at refill stations and change-over stations, and
- (e) procedures, so far as is reasonably practicable, for rehydration and communication in an irrespirable atmosphere, and
- (f) provisions for monitoring the respirable air both within and outside a change-over station, and
- (g) the escape apparatus and cache or refill station capacity that is required to allow the safe escape of all persons from the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (7) The mine operator of an underground mine other than an underground coal mine must, in conjunction with providing an adequate means of escape, ensure that an

overall emergency escape to the surface or refuge strategy is developed for the mine that takes into account:

- (a) the distance persons will need to travel in order to reach a refuge chamber or the surface, and
- (b) the rate at which persons will need to travel in order to reach a refuge chamber or the surface safely, and
- (c) the location, number, duration and capacity of refuge chambers including arrangements in relation to the provision of food, water, sanitation, communications and the potential for the generation of excess heat in the chamber, and
- (d) arrangements for the monitoring of the air both within and outside the refuge chamber, and
- (e) arrangements for locating refuge chambers by persons who may need to use them in circumstances of reduced visibility, and
- (f) limiting the number of persons in an area to the refuge chamber capacity, and
- (g) procedures to recover all persons who may need to use the refuge chamber as soon as possible in a safe manner.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

98 Signage for emergency refuge (cl 673 model WHS Regs)

The mine operator of an underground mine that includes a refuge chamber must ensure that signs are prominently displayed at the mine showing the location of, and direction to, each refuge chamber.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

99 Signage for caches, refill stations and change-over stations

The mine operator of an underground mine that includes a cache, refill station or change-over station must ensure that signs are prominently displayed at the mine showing the location of each such cache, refill station or change-over station.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

100 Self-rescuers (cl 674 model WHS Regs)

- (1) The mine operator of an underground mine (other than an opal mine) must ensure that a person who is to go underground is provided with an appropriate self-rescuer if there is a risk of an irrespirable atmosphere in the underground mine (including during an emergency).

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The mine operator must ensure that the person is trained in the use of, and is able to use, the self-rescuer provided.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) In the case of a worker at the mine, any such training must involve training the worker in a simulated work environment in the donning and change-over of each type of self-rescuer that the worker may be required to use:
 - (a) before the worker initially commences work at the mine, and
 - (b) every 6 months after that.
- (4) In the case of a worker at an underground coal mine, any such training must also involve training the worker to operate any oxygen-generating self-contained self rescuers that the worker may be required to use while undertaking physical effort similar to an evacuation situation:
 - (a) before the worker initially commences work at the mine, and
 - (b) every 3 years after that.
- (5) A simulator (live trainer) may be used instead of a self-rescuer for the purposes of subclause (4), but only if the simulator:
 - (a) delivers oxygen, and
 - (b) the delivery of that oxygen is affected, in a similar way to the relevant self-rescuer, by the rate of the person's breathing, the person's work effort and environmental temperature, and
 - (c) is worn and is operated in a similar way to the relevant self-rescuer.
- (6) The mine operator must conduct a risk assessment to determine whether self-contained self-rescuers should be provided to any person who is to go underground at the mine.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

101 Personal protective equipment in emergencies (cl 675 model WHS Regs)

- (1) This clause applies in relation to a worker who is to enter an underground mine in an emergency in order to carry out first aid or rescue procedures.
- (2) The mine operator of the underground mine must ensure that oxygen or air supplied respiratory equipment is available for use by, and is provided to, the worker in an emergency in which:
 - (a) the concentration of oxygen falls below a safe oxygen level, or
 - (b) the atmosphere in the underground mine has a harmful concentration of an airborne contaminant, or
 - (c) there is a serious risk of the atmosphere in the underground mine becoming affected in the way referred to in paragraph (a) or (b) while the worker is in the underground mine.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

- (3) The mine operator must ensure that suitable personal protective equipment is available for use by, and is provided to, the worker in an emergency in which:
- (a) there has been an inundation or inrush of any substance in the underground mine, or
 - (b) there is a serious risk of an inundation or inrush of any substance occurring while the worker is in the underground mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (4) The mine operator must ensure, so far as is reasonably practicable, that a worker uses the personal protective equipment provided under subclause (2) or (3).

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

102 Competent persons at surface

The mine operator of an underground mine must ensure that at any time that persons are underground:

- (a) at least one person at the surface (the *surface contact*) is readily available to be contacted by those persons underground, and
- (b) at least one of the surface contacts has the authority, the competence and is readily available to activate the emergency plan as necessary, and
- (c) at least one of the surface contacts has the competence and is readily available to answer alarms as necessary, and
- (d) at least one of the surface contacts has the competence and is readily available to switch off and switch on the supply of power to the underground parts of the mine as necessary.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Division 7 Information, training and instruction

103 Duty to inform workers about safety management system (cl 675A model WHS Regs)

- (1) The mine operator of a mine must ensure that, before a worker commences work at the mine:
- (a) the worker is given a summary of the safety management system for the mine that is relevant to the worker's work at the mine, and
 - (b) the worker is informed of the right to see the documented safety management system for the mine prepared under clause 13, and
 - (c) the worker is given a summary of each principal mining hazard management plan prepared under clause 24 that relates to any risk that may arise in the course of the worker's work at the mine, and
 - (d) the worker is informed of the right to see any principal mining hazard management plan prepared under clause 24.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or

- (b) in the case of a body corporate—\$30,000.
 - (2) The mine operator must ensure that the documented safety management system is available on request to a worker at the mine.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
 - (3) The mine operator must ensure that the following are readily accessible to all workers at the mine:
 - (a) each principal control plan for the mine,
 - (b) the ventilation control plan for the mine,
 - (c) the emergency plan for the mine.Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
 - (4) If the safety management system is revised under clause 17, the mine operator must ensure, so far as is reasonably practicable, that each worker at the mine is made aware of any revision that is relevant to work being carried out by the worker.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- Note.** In relation to the provision of information to workers, also see clause 39 of the WHS Regulations and section 19 (3) (f) of the WHS Act.

104 Duty to provide information, training and instruction (cl 675B model WHS Regs)

- (1) This clause applies in addition to clause 39 of the WHS Regulations.
- (2) The mine operator of a mine must ensure that each worker at the mine is provided with suitable and adequate information, training and instruction in relation to the following:
 - (a) hazards associated with the work being carried out by the worker,
 - (b) the implementation of control measures relating to the work being carried out by the worker, including control measures in relation to fatigue, the consumption of alcohol and the use of drugs,
 - (c) the content and implementation of the relevant parts of the safety management system for the mine,
 - (d) the emergency plan for the mine,
 - (e) the safety role for workers implemented under clause 120.Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) A person conducting a business or undertaking at a mine must ensure that each worker engaged by the person is trained, and is competent, in basic risk management techniques used at the mine having regard to the nature of the work carried out by the worker.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or

- (b) in the case of a body corporate—\$30,000.

105 Duty to provide induction for workers

The mine operator of a mine must ensure that before a worker commences work at the mine, the worker is given information, training and instruction on the safety management system for the mine that is designed to provide the worker with knowledge of all relevant aspects of the safety management system.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

106 Information for visitors (cl 675C model WHS Regs)

The mine operator of a mine must ensure that a visitor who enters the mine with the authority of the mine operator is, as soon as is reasonably practicable:

- (a) informed about risks associated with mining operations to which the visitor may be exposed at the mine, and
- (b) instructed in health and safety precautions the visitor should take at the mine, and
- (c) instructed in the actions the visitor should take if the emergency plan for the mine is implemented while the visitor is at the mine.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

107 Review of information, training and instruction (cl 675D model WHS Regs)

The mine operator of a mine must ensure that information, training and instruction provided to workers under clauses 103–105 or to visitors under clause 106 are reviewed and as necessary revised to ensure that they remain relevant and effective.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

108 Record of training (cl 675E model WHS Regs)

The mine operator of a mine must:

- (a) make a record of any training provided to a worker under clause 104, and
- (b) keep the record while the worker remains engaged at the mine, and
- (c) ensure that the record is made available on request to the worker.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

Part 3 Health monitoring

109 Health monitoring of worker (cl 675F model WHS Regs)

- (1) The mine operator of a mine must ensure that health monitoring is provided in accordance with subclause (3) to a worker at a mine engaged to carry out work at a mine if:
 - (a) there is a significant risk of an adverse effect on the worker's health because of the worker's exposure to a hazard associated with mining, and
 - (b) valid techniques are available to detect that effect on the worker's health.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator of a mine must also ensure that health monitoring is provided in accordance with subclause (3) to a worker at the mine, or in relation to a specific hazard at the mine, if the regulator so directs.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) The health monitoring must be carried out:
 - (a) in accordance with this Part, and
 - (b) at intervals determined by a registered medical practitioner with experience in health monitoring.

- (4) The mine operator of a mine must, in determining how to manage the risks associated with a worker who has experienced adverse health effects from exposure to a hazard at the mine, take into account the matters referred to in clause 114 (2) (g) and (h) of any health monitoring report given to the mine operator in respect of the worker.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

110 Duty to inform of health monitoring (cl 675G model WHS Regs)

The mine operator of a mine, who is required to ensure that health monitoring is provided to a worker, must give information about the health monitoring requirements to:

- (a) a person who is likely to be engaged to carry out work that triggers the requirement for health monitoring, and
- (b) a worker at the mine, before the worker commences work that triggers the requirement for health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

111 Duty to ensure health monitoring is carried out or supervised by registered medical practitioner with experience (cl 675H model WHS Regs)

- (1) The mine operator of a mine must ensure, so far as is reasonably practicable, that the health monitoring of a worker under this Part is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (2) The mine operator must ensure that the worker is consulted in relation to the selection of the registered medical practitioner.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
(b) in the case of a body corporate—\$18,000.

112 Duty to pay costs of health monitoring (cl 675I model WHS Regs)

- (1) The mine operator of a mine who engages a worker at the mine must pay all expenses relating to health monitoring referred to in this Part.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
(b) in the case of a body corporate—\$18,000.

- (2) If the mine operator of a mine has not engaged a worker at the mine, the person conducting the business or undertaking that engaged the worker must pay all expenses relating to health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
(b) in the case of a body corporate—\$18,000.

113 Duty to provide registered medical practitioner with information (cl 675J model WHS Regs)

The person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring:

- (a) the name and address of the mine operator,
(b) the name and date of birth of the worker,
(c) the work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring,
(d) if the worker has started the work—how long the worker has been carrying out the work.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
(b) in the case of a body corporate—\$18,000.

114 Health monitoring report (cl 675K model WHS Regs)

- (1) Health monitoring must be documented in a health monitoring report in the form approved by the regulator.

- (2) The health monitoring report must include the following:

- (a) the name and date of birth of the worker,

- (b) the name and registration number of the registered medical practitioner,
- (c) the name and address of:
 - (i) the mine operator, and
 - (ii) the person conducting a business or undertaking who commissioned the health monitoring,
- (d) the date of the health monitoring,
- (e) an explanation of the results,
- (f) any advice indicating any adverse health effect resulting from exposure to a risk associated with mining operations,
- (g) any recommendation that the mine operator take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring,
- (h) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

115 Person conducting business or undertaking to obtain health monitoring report

(cl 675L model WHS Regs)

The person conducting a business or undertaking who has commissioned health monitoring must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as is reasonably practicable after the monitoring is carried out in relation to a worker.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

116 Person conducting business or undertaking to give health monitoring report to mine operator of mine (cl 675M model WHS Regs)

A person conducting a business or undertaking at a mine (other than the mine operator) must, on request, give a copy of the health monitoring report required to be kept under clause 119 (1) to the mine operator of any mine at which the worker carries out work.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

117 Duty to give health monitoring report to worker (cl 675N model WHS Regs)

The mine operator of a mine must take all reasonable steps to ensure that a worker at the mine who is provided with health monitoring is given a copy of the health monitoring report as soon as is reasonably practicable after the monitoring is carried out.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

118 Duty to give health monitoring report to regulator (cl 675O model WHS Regs)

The mine operator of a mine must take all reasonable steps to ensure that a copy of a health monitoring report relating to a worker at the mine is given to the regulator as soon as is reasonably practicable if the report contains:

- (a) any advice indicating any significant adverse health effect resulting from exposure to a risk associated with mining operations, or
- (b) a recommendation that the mine operator should move the worker from a hazard or assign the worker to different work.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

119 Health monitoring reports kept as records (cl 675P model WHS Regs)

- (1) The person conducting a business or undertaking that engaged a worker at the mine must ensure that a health monitoring report in relation to the worker is kept as a confidential record.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

- (2) The person must ensure that a health monitoring report in relation to a worker is kept:
 - (a) for hazards known to have a cumulative or delayed health effect—for at least 30 years after the record is made, or
 - (b) for other hazards—for at least 7 years after the record is made.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

- (3) A person conducting a business or undertaking who obtains a health monitoring report in relation to a worker under this Part must not disclose the report to another person without the worker's written consent.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

- (4) Subclause (3) does not apply if the health record is disclosed to:
 - (a) a mine operator to whom a copy report is given under clause 116, or
 - (b) the regulator under clause 118, or
 - (c) a person to whom all records are given under clause 6 (4) or (5), or
 - (d) a person who must keep the record confidential under a duty of professional confidentiality, or
 - (e) a health and safety representative in accordance with section 71 (2) of the WHS Act.
- (5) The person conducting a business or undertaking that engaged a worker at the mine must ensure, so far as is reasonably practicable, that any health monitoring report

kept in relation to a worker under subclause (1) is given to the worker if the business or undertaking at the mine is to be wound up or to otherwise cease to exist.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

Part 4 Consultation and workers' safety role

120 Safety role for workers in relation to principal mining hazards (cl 675Q model WHS Regs)

The mine operator of a mine must implement a safety role for the workers at the mine that enables them to contribute to:

- (a) the identification under clause 23 of principal mining hazards that are relevant to the work that the workers are or will be carrying out, and
- (b) the consideration of control measures for risks associated with principal mining hazards at the mine, and
- (c) the consideration of control measures for risks to be managed under principal control plans, and
- (d) the conduct of a review under clause 25.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

121 Mine operator must consult with workers (cl 675R model WHS Regs)

For the purposes of section 49 (f) of the WHS Act, the mine operator of a mine must consult with workers at the mine in relation to the following:

- (a) the development, implementation and review of the safety management system for the mine,
- (b) conducting risk assessments for principal mining hazard management plans,
- (c) conducting risk assessments for principal control plans,
- (d) preparing, testing and reviewing the emergency plan for the mine,
- (e) the implementation of the workers' safety role under clause 120,
- (f) developing and implementing strategies to protect persons at the mine from any risk to health and safety arising from the following:
 - (i) the consumption of alcohol or use of drugs by any person,
 - (ii) worker fatigue.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

Note. See section 49 of the WHS Act for other consultation duties of a person conducting a business or undertaking.

Part 5 Mine survey plans and mine plans

122 Survey plan of mine must be prepared (cl 675S model WHS Regs)

- (1) This clause does not apply to an opal mine or a tourist mine.
- (2) The mine operator of a mine other than an underground mine or a coal mine must conduct a risk assessment to determine if a mine survey plan is necessary for the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (3) A survey plan is required for the following mines:
 - (a) an underground mine,
 - (b) a coal mine,
 - (c) a mine in respect of which a risk assessment under subclause (2) has found that a mine survey plan is necessary for the mine,
 - (d) a mine that the regulator has determined requires a mine survey plan, but only if the regulator has notified the mine operator of the mine in writing of that determination.
 - (4) The mine operator of a mine for which a survey plan is required must ensure that a detailed survey plan of the mine is prepared and certified by an individual nominated to exercise the statutory function of mining surveyor for the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (5) The plan must reference the mine to the Geocentric Datum of Australia and the Australian Height Datum.
 - (6) The plan must show the following (if present at the mine):
 - (a) the workings of the mine, including disused workings and bore holes,
 - (b) any other disused workings that are attached, or in close proximity, to the mine,
 - (c) the location of high voltage electrical installations,
 - (d) the location of telephones and other fixed plant associated with the radio and telecommunications systems,
 - (e) water dams and tailings dams,
 - (f) natural features surrounding the mine,
 - (g) places for the storage of hydrocarbons or explosives,
 - (h) in the case of an underground mine—points of entry and exit, including emergency exits,
 - (i) refuge chambers (in an underground mine),
 - (j) caches, refill stations and change-over stations (in an underground coal mine).
 - (7) In complying with subclause (4), the mine operator of a mine must take all reasonable steps to obtain historical mine surveys of the mine to ensure the accuracy of the mine survey plan.

- (8) An individual nominated to exercise the statutory function of mining surveyor at a mine must take all reasonable steps to ensure that any mine survey plan prepared or verified by the individual is accurate.
Maximum penalty:
(a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.
- (9) An individual nominated to exercise the statutory function of mining surveyor at a mine who has surveyed the mine must inform the mine operator of the mine of any variation between the mine workings at the mine and the current mine survey plan of the mine.
Maximum penalty:
(a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.
- (10) A mine operator of a mine must inform an individual nominated to exercise the statutory function of mining surveyor at the mine of any variation that the mine operator is aware of between the mine workings at the mine and the current mine survey plan of the mine.
Maximum penalty:
(a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.
- (11) In this clause:
Australian Height Datum means the Australian Height Datum described in the Division of National Mapping Technical Report No 12, *The Adjustment of the Australian Levelling Survey, 1970—1971* (2nd edition, 1975).
Geocentric Datum of Australia means the Geocentric Datum of Australia as defined in Commonwealth of Australia Gazette No. 35 of 6 September 1995 at page 3369.
Note. Regulations made under the *Surveying and Spatial Information Act 2002* have application to mine surveys.

123 Plans of mines (other than mine survey plans)

- (1) This clause applies to a mine other than a mine for which a mine survey plan is required under clause 122.
- (2) The mine operator of a mine must ensure that a plan of the mine is prepared by a competent person.
Maximum penalty:
(a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.
- (3) The plan must show the following (if present at the mine):
(a) proposed workings of the mine,
(b) the existing workings of the mine, including disused workings,
(c) any other disused workings that are attached, or in close proximity, to the mine,
(d) the location or estimated location of the boundary of any adjacent mine workings or geological structures.
- (4) Clauses 124 and 125 apply to and in respect of a plan under this clause in the same way as they apply to and in respect of a mine survey plan.

124 Review of survey plan (cl 675T model WHS Regs)

- (1) The mine operator of a mine must review and as necessary revise the mine survey plan:
 - (a) if 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, or
 - (b) if there are reasonable grounds to believe that the mine survey plan is not accurate, or
 - (c) if directed to do so by the regulator because the regulator believes that the mine survey plan is not accurate, or
 - (d) at least once every 12 months.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) Subclause (1) (d) does not apply if the mining operations at the mine have been discontinued or suspended for more than 12 months.

125 Survey plan to be available (cl 675U model WHS Regs)

- (1) The mine operator of a mine must keep the current mine survey plan and all previous versions of the plan available for inspection under the WHS laws.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
 - (b) in the case of a body corporate—\$18,000.
- (2) The mine operator of a mine must make the current mine survey plan available on request to workers at the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

126 Security of survey data

The mine operator of a mine must ensure, so far as is reasonably practicable, that all survey data at the mine is secured against loss, damage or unauthorised access.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

127 Survey plan to be provided to regulator

- (1) The mine operator of a mine must provide a copy of the mine survey plan of the mine to the regulator in the manner and form required by the regulator:
 - (a) if requested to do so by the regulator, or
 - (b) as soon as is reasonably practicable after the closure of the mine (in which case the plan must show the status of the mine workings immediately before the closure).

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The regulator is to keep the copy of any mine survey plan of a mine that was provided to the regulator following the closure of the mine and is to make copies of the plan available to persons whom the regulator believes have a legitimate concern for health and safety arising from the closed mine.
- (3) The regulator may impose conditions with respect to a mine survey plan being examined by, or provided to, any such person.

Part 6 Provision of information to regulator

Note. This Part applies in addition to Part 3 of the WHS (Mines) Act.

128 Duty to notify regulator of certain incidents (cl 675V model WHS Regs)

- (1) The mine operator of a mine must take all reasonable steps to ensure that the regulator is notified in accordance with this clause after becoming aware of an incident (other than a notifiable incident) arising out of the carrying out of mining operations at the mine, but only if the incident:
 - (a) results in illness or injury that requires medical treatment within the meaning of clause 13 of Schedule 9, or
 - (b) is a high potential incident.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The notification must also be made to an industry safety and health representative in the case of an incident at a coal mine.
 - (3) The mine operator must ensure that the regulator is notified as soon as reasonably practicable after becoming aware of the incident, but no later than the earlier of the following:
 - (a) 7 days after becoming aware of the incident, or
 - (b) 48 hours after becoming aware that the incident resulted in an illness or injury.
 - (4) The notification must:
 - (a) be in writing, and
Example. The notice may be given by facsimile, email or other electronic means.
 - (b) be in a form required by the regulator, and
 - (c) in the case of an incident that results in an illness or injury, contain the details specified in Schedule 8.
 - (5) In this clause:

high potential incident means any of the following:

- (a) an event referred to in clause 179 (a) (i)–(xviii) that would have been a dangerous incident if a person were reasonably in the vicinity at the time when the incident or event occurred and in usual circumstances a person could have been in that vicinity at that time,
- (b) the detection of a concentration of methane in the general body of the air in an underground coal mine (other than in a sealed area or goaf) that is 2.5% by volume or greater,
- (c) an unplanned fall of ground, roof or sides that impedes passage, extends beyond the bolted zone or disrupts production or ventilation,
- (d) a failure of ground support where persons could potentially have been present,
- (e) the burial of machinery such that it cannot be recovered under its own tractive effort,
- (f) progressive pillar failure or creep,
- (g) a sudden pillar collapse,
- (h) an electric arc occurring in the hazardous zone in an underground coal mine that is directly observed or that leaves visible evidence on an electric cable,

- (i) the failure of the explosion-protection characteristics of explosion-protected plant while that plant is in service in an underground coal mine,
- (j) a misfire or unplanned explosion of an explosive or explosive precursor (but not in the case of a misfire at a mine other than a coal mine if the misfired explosive can be fired without any significant risk to a person),
- (k) an unplanned event that causes the emergency evacuation of more than one person from the mine or part of the mine,
- (l) an unplanned event that causes less than 2 exits from an underground mine to be available for use,
- (m) any indication from monitoring data of the development of subsidence which may result in any incident referred to in clause 179 (a) (xvi) or (xvii),
- (n) an injury to a person (supported by a medical certificate) that results in or is likely to result in the person being unfit, for a continuous period of at least 7 days, to perform the person's usual activities at the person's place of work,
- (o) the illness of a person (supported by a medical certificate) that is related to a work process and that results in or is likely to result in the person being unfit, for a continuous period of at least 7 days, to perform the person's usual activities at the person's place of work.

Note. This clause does not apply in relation to notifiable incidents about which notification must be given under Part 3 of the WHS (Mines) Act.

129 Duty to notify regulator of other matters

- (1) In this clause:
 - coal mine* does not include a coal mine at which no mining activity takes place other than exploring for minerals.
 - reportable event*, in respect of a mine, means any of the following events:
 - (a) the commencement of mining operations at the mine,
 - (b) any significant interruption to, or suspension of, mining activities at the mine,
 - (c) the recommencement of normal mining operations at the mine following an event referred to in paragraph (b),
 - (d) the commencement of intermittent mining operations at the mine,
 - (e) the connection of an electricity supply to the mine (but not if a person is nominated to exercise the statutory functions of electrical engineering manager or electrical engineer at the mine),
 - (f) the closure of the mine.
- (2) This clause does not apply to an opal mine.
- (3) The mine operator of a mine must give notice of a reportable event in respect of the mine:
 - (a) no later than one month before the event occurs, and
 - (b) in respect of the recommencement of normal mining operations at the mine following an event referred to in subclause (1) (b) as soon as is reasonably practicable after the mine operator becomes aware that the mining operations are to recommence.
- (4) A notice in relation to the reportable event of the commencement of mining operations at a mine must include the following:
 - (a) the date of the commencement of mining operations at the mine,
 - (b) the date that mining operations at the mine are intended to conclude,

- (c) the global positioning satellite coordinates of the area covered by the mine (and if the mining operations include exploration involving drilling, the coordinates of the location of the drill holes),
 - (d) details of the scope, character and location of the mining operation at the mine,
 - (e) details of the minerals sought, extracted or otherwise dealt with at the mine,
 - (f) whether the mine has an underground mine,
 - (g) identification details of the persons nominated to exercise key statutory functions at the mine and the competency of those persons to exercise those functions.
- (5) A notice in relation to the reportable event of the commencement of mining operations at a coal mine must include the following in addition to the matters set out in subclause (4):
- (a) the positions within the management structure that have responsibility for the management of work health and safety at the mine (including persons nominated to exercise a statutory function at the mine) and the names of those persons and their contact details,
 - (b) a list of the principal mining hazards that are anticipated in the conduct of the mining operations at the mine,
 - (c) an outline of the contents of the safety management system for the mine,
 - (d) an outline of each principal mining hazard management plan and principal control plan including a list of any code, standard or guidelines referred to in any such plan.
- (6) The regulator may require a mine operator to provide, by notice, any additional particulars in relation to any of the matters referred to in subclause (4) or (5) or in relation to the performance of duties by the mine operator.
- (7) The mine operator of a coal mine must give notice of any proposed material change to any information provided under subclause (5) as soon as is reasonably practicable after the mine operator becomes aware that the change is proposed to occur.
- (8) A notice under this clause must:
- (a) be in writing, and
 - (b) be given to the regulator (and, in the case of a coal mine, an industry safety and health representative), and
 - (c) be given in the manner and form required by the regulator.
- (9) A mine operator is not required to give notice before the occurrence of a reportable event or proposed change if the mine operator:
- (a) did not intend the occurrence of the event or change and could not have reasonably foreseen the occurrence of that event or change, and
 - (b) gives notice as soon as is reasonably practicable after the occurrence of the event or change.
- (10) The regulator may, on the application of a mine operator, waive or vary any requirement for the giving of notice under this clause.
- (11) Before waiving or varying any requirement in respect of a coal mine, the regulator is to take reasonable steps to inform an industry safety and health representative of the proposed waiver or variation.

- (12) The mine operator of a mine must ensure that any notice required by or under this clause is given in accordance with this clause.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

130 Quarterly reports (cl 675W model WHS Regs)

- (1) The mine operator of a mine must give the regulator a quarterly work health and safety report in accordance with this clause.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (2) The report must:

- (a) be given at the times or intervals (including annually) and in the manner and form required by the regulator, and
(b) contain the information specified in Schedule 9.

Note. This clause applies in relation to notifiable incidents and incidents referred to in clause 128.

131 Ancillary reports

- (1) The regulator may specify, by notice published in the Gazette, classes of incidents that require an ancillary report to be provided to the regulator under this clause. Any such notice may also specify the information or documents that must be included in the ancillary report and the form of the report.

- (2) A person who conducts a business or undertaking at a mine (including the mine operator of the mine) who is required to notify the regulator of an incident under section 15 (1) or (2) of the WHS (Mines) Act or clause 128 of this Regulation must provide an ancillary report of the incident to the regulator if the incident is of a class specified in a notice under subclause (1).

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (3) An ancillary report under this clause must:

- (a) contain the information or documents (if any) specified in the relevant notice, and
(b) must be in the form (if any) specified in that notice, and
(c) must be provided to the regulator no later than 30 days after the incident was required to be notified to the regulator.

- (4) In this clause:

incident means a notifiable incident or an incident referred to in clause 128.

132 Duty to notify mine operator of notifiable incident (cl 675X model WHS Regs)

A person who conducts a business or undertaking at a mine must ensure that the mine operator is notified as soon as is reasonably practicable of any notifiable incident that has been notified to the regulator under section 15 (2) of the WHS (Mines) Act.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or

(b) in the case of a body corporate—\$30,000.

Note. Section 15 (2) of the WHS (Mines) Act requires a person who conducts a business or undertaking to ensure that the regulator is notified of notifiable incidents.

Part 7 Mine Record

133 Mine record (cl 675Y model WHS Regs)

- (1) The mine operator of a mine must keep a mine record for the mine.
Maximum penalty:
 - (a) in the case of an individual—\$3,600, or
 - (b) in the case of a body corporate—\$18,000.
- (2) The mine record must contain:
 - (a) a record of any notice issued in relation to the mine under Part 10 of the WHS Act, and
 - (b) a copy of any provisional improvement notice issued in relation to the mine under Division 7 of Part 5 of the WHS Act, and
 - (c) a record of every incident notified to the regulator under the WHS (Mines) Act or under clause 128, and
 - (d) a summary of all records kept under clauses 11 and 12, and
 - (e) each report under clause 27 by a shift supervisor at the mine, and
 - (f) any other record that the mine operator is required to keep in respect of the mine under the WHS laws, and
 - (g) a record of all first aid treatment provided at the mine.

134 Mine record must be kept and available (cl 675Z model WHS Regs)

- (1) The mine operator of a mine must keep a record that forms part of the mine record for 7 years from the date the record was made or for any longer period that may be required under the WHS laws in respect of a particular record.
Maximum penalty:
 - (a) in the case of an individual—\$1,250, or
 - (b) in the case of a body corporate—\$6,000.
- (2) The mine operator must keep the mine record for the mine available for inspection under the WHS laws.
Maximum penalty:
 - (a) in the case of an individual—\$1,250, or
 - (b) in the case of a body corporate—\$6,000.
- (3) The mine operator must ensure that the mine record for the mine is available and readily accessible to workers at the mine on request.
Maximum penalty:
 - (a) in the case of an individual—\$1,250, or
 - (b) in the case of a body corporate—\$6,000.
- (4) For the purposes of subclause (3), the mine operator is only required to make available a summary of a record referred to in clause 133 (2) (c).
- (5) Subclause (3) does not require or permit the mine operator to provide personal or medical information in relation to a worker without the worker's written consent unless the information is in a form that:
 - (a) does not identify the worker, and
 - (b) could not reasonably be expected to lead to the identification of the worker.

Part 8 Statutory functions

Division 1 Preliminary

135 Definition

In this Act:

interstate practising certificate means a practising certificate, issued under a corresponding WHS law, that the regulator has declared by notice published in the Gazette to be equivalent to a practising certificate issued under this Regulation.

key statutory functions means the following statutory functions:

- (a) mining engineering manager,
- (b) electrical engineering manager,
- (c) mechanical engineering manager,
- (d) electrical engineer,
- (e) mechanical engineer,
- (f) quarry manager,
- (g) ventilation officer.

practising certificate means a practising certificate issued under Division 3 that authorises an individual to exercise a statutory function.

Division 2 Nomination to exercise statutory functions

136 Statutory functions

- (1) Each of the functions set out in Schedule 10 in respect of a class of mine is, for the purposes of this Regulation, a *statutory function* at a mine within that class.
- (2) Any such function can be exercised at the mine only by an individual who is nominated to exercise the function by the mine operator.
- (3) An individual may be nominated to exercise a statutory function at a mine by the mine operator only if the individual meets the requirements for nomination specified in that Schedule.
- (4) An individual nominated to exercise a statutory function who ceases to meet the requirement for nomination cannot exercise the statutory function and is taken to be no longer nominated to exercise that statutory function.
- (5) More than one individual may exercise a statutory function (other than a key statutory function) and an individual may exercise more than one statutory function (including at different mines).

137 Obligations on mine operator

- (1) The mine operator of a mine must ensure that a statutory function is exercised at the mine only by an individual who meets the requirements for nomination specified in Schedule 10 for the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

- (2) The mine operator of a mine must ensure that any individual who is nominated to exercise a statutory function at the mine is readily available to exercise, and is capable of exercising, the statutory function.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (3) The mine operator of a mine must ensure that not more than one individual is nominated to exercise a key statutory function at the mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

- (4) The mine operator of a mine must ensure that mining activities (except exploring for minerals by means other than mechanical means that disturb the ground) do not take place at the mine if:

- (a) a key statutory function is set out in Schedule 10 in respect of the mine, and
(b) an individual is not currently nominated to exercise that key statutory function at the mine, and
(c) there has not been an individual nominated to exercise that key statutory function at the mine for more than 7 days.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
(b) in the case of a body corporate—\$30,000.

138 Obligation on nominee

An individual who is nominated to exercise a statutory function at a mine must, as soon as is reasonably practicable, inform the mine operator of any matter that may interfere with the individual's ability to exercise the statutory function.

Example. The suspension or cancellation of a practising certificate.

Maximum penalty: \$6,000.

Division 3 Practising certificates

139 Eligibility for practising certificate

- (1) An individual is eligible to hold a practising certificate in respect of a statutory function if the regulator is satisfied that the individual has the competence to exercise the statutory function.
- (2) The regulator may be satisfied that an individual is competent to exercise a statutory function if the individual:
- (a) holds a certificate of competence or an interstate practising certificate in respect of the statutory function, or
(b) meets other criteria specified by the regulator in respect of the statutory function by notice published in the Gazette.
- (3) An individual is not eligible to hold a practising certificate if the individual is less than 21 years of age.

140 Application for practising certificate

- (1) An application for a practising certificate must be made in the manner and form required by the regulator.

- (2) An application is to be accompanied by the fee (if any) determined by the regulator.

141 Grant of practising certificate

- (1) The regulator may grant a practising certificate and may grant the practising certificate unconditionally or subject to conditions.
- (2) The regulator must refuse to grant a practising certificate if satisfied that the applicant is not eligible to hold the certificate.
- (3) The regulator must give an applicant written notice of a refusal to grant a practising certificate with the reasons for the refusal.
- (4) A practising certificate remains in force, unless sooner cancelled, for a period of 5 years commencing on the date on which it is granted, or for such lesser period as may be specified in the practising certificate.
- (5) A practising certificate is not in force during any period that it is suspended.
- (6) More than one practising certificate may be issued to an individual under this clause, whether as a replacement or renewal of an existing certificate or as a separate practising certificate authorising the individual to exercise another statutory function.

142 Interstate practising certificates

- (1) An interstate practising certificate that authorises an individual to exercise a statutory function in another jurisdiction is taken to be a practising certificate authorising the individual to exercise that statutory function in New South Wales, but only until:
 - (a) the individual obtains a practising certificate in New South Wales that authorises the individual to exercise the statutory function, or
 - (b) the interstate practising certificate ceases to be in force, or
 - (c) the individual has been exercising the statutory function in New South Wales for 6 months in reliance on the interstate practising certificate and during that time the majority of the individual's work has taken place in New South Wales.
- (2) The regulator may suspend or cancel an interstate practising certificate in the same way that the regulator may cancel or suspend a New South Wales practising certificate. However, any such cancellation or suspension has effect only in relation to the use of the interstate practising certificate in New South Wales.

143 Conditions

- (1) The regulator may, by written notice to the holder of a practising certificate, impose conditions on the practising certificate or may vary or revoke any condition imposed by the regulator.
- (2) It is a condition of a practising certificate that the holder of the certificate must, if required by the regulator by notice in writing, do the following within the time (if any) specified in the notice:
 - (a) provide specified information relating to the individual's competency or any other matter relating to the practising certificate,
 - (b) satisfy the regulator that the individual has a knowledge of law and ethics to the level necessary to hold the particular practising certificate,
 - (c) undertake and successfully complete specified training courses or other specified forms of training.

- (3) It is a condition of a practising certificate that the holder of the certificate must keep records that demonstrate the individual's eligibility to hold the certificate, including evidence of completion of courses and time sheets.
- (4) The regulator must, as soon as is reasonably practicable after imposing a new condition or varying a condition of a practising certificate, issue the holder of the certificate with a replacement certificate that takes account of the imposition or variation.
- (5) The requirements of this clause apply to every practising certificate including interstate practising certificates. However, a condition applies to an interstate practising certificate only to the extent that it is used in New South Wales.

144 Suspension and cancellation of practising certificate

- (1) The regulator may, by notice in writing to a holder of a practising certificate, suspend or cancel the practising certificate.
- (2) The regulator may suspend or cancel a practising certificate if satisfied of any one or more of the following:
 - (a) the holder is not competent to perform a statutory function authorised by the practising certificate,
 - (b) the holder cannot be relied on to perform a statutory function authorised by the practising certificate without risking the health or safety of an individual,
 - (c) the holder has not complied with a condition to which the practising certificate is subject,
 - (d) the practising certificate was improperly obtained, whether on the basis of false or misleading information or otherwise,
 - (e) the practising certificate was issued in error,
 - (f) the holder has been convicted of an offence under the WHS laws, a corresponding WHS law, the *Explosives Act 2003* or the *Radiation Control Act 1990* or any former law of this State dealing with work health and safety.
- (3) The regulator may also suspend a practising certificate:
 - (a) if the holder of the practising certificate has been charged with an offence under the WHS laws, a corresponding WHS law, the *Explosives Act 2003* or the *Radiation Control Act 1990*, or
 - (b) to enable the regulator to investigate whether there are grounds under this clause for suspending or cancelling the practising certificate.
- (4) A suspension under subclause (3) (b):
 - (a) may occur only if the regulator has reason to believe that there are grounds under this clause for suspending or cancelling the practising certificate, and
 - (b) is to be for a period of no more than 28 days.
- (5) The period of 28 days referred to in subclause (4) (b) may be extended on one occasion only, for an additional period of 28 days, if:
 - (a) the regulator has not completed the investigation, after having taken reasonable steps to do so, and
 - (b) the regulator still has reason to believe that there are grounds for suspending or cancelling the practising certificate.
- (6) The holder of a practising certificate must be given notice in writing of the reasons for a proposed cancellation or a suspension of the practising certificate and the holder must be given an opportunity to object to the proposed cancellation or the suspension.

- (7) The notice under subclause (6) may be given as part of a notice suspending a practising certificate or may be given as a separate notice before the suspension or cancellation takes effect.
- (8) A practising certificate is not to be cancelled until an individual has been given at least 28 days in which to lodge an objection and the regulator has taken into account any such objection lodged within that time.
- (9) The regulator may revoke a suspension by notice in writing to the holder of the practising certificate.
- (10) The regulator must revoke a suspension as soon as is reasonably practicable after being satisfied that the suspension should not continue.
- (11) The suspension or cancellation of a practising certificate takes effect when the notice is given to the individual or on such later day as may be specified in the notice.
- (12) A notice cancelling a practising certificate must specify the reason why the certificate is cancelled and the manner and time within which the practising certificate must be returned to the regulator.
- (13) The holder of a cancelled practising certificate must return the practising certificate to the regulator within such period as may be specified in the notice of cancellation.
Maximum penalty:
 - (a) in the case of an individual—\$1,250, or
 - (b) in the case of a body corporate—\$6,000.
- (14) If the regulator suspends or cancels a practising certificate, the regulator may disqualify the holder from applying for:
 - (a) a further practising certificate of the same type, or
 - (b) another practising certificate which enables the holder to exercise a statutory function that requires skills that are the same as or similar to those required to exercise the statutory function authorised by the practising certificate that has been suspended or cancelled.

145 Register of practising certificates

- (1) The regulator is to maintain a register of practising certificates (the *register*).
- (2) The purpose of the register is to provide certification agencies, mine operators, industry safety and health representatives and mine safety and health representatives (and persons exercising similar functions in other jurisdictions) with information about the holders of practising certificates including:
 - (a) the identifying details of the holder, including the name and contact details of the holder and the holder's unique identifier, and
 - (b) the qualifications and skills of the holder, and
 - (c) the places at which the holder works and has worked, and
 - (d) details of any practising certificate of the holder including its expiry date and any conditions to which it is subject, and
 - (e) details of any action under the WHS laws in relation to the holder, including any convictions or the suspension or cancellation of any current or previous practising certificate.
- (3) The regulator may collect, store, use and disclose information for the purposes of the register.
- (4) The regulator may disclose any information on the register to any person or agency if the regulator considers that it is reasonably necessary to do so to reduce or control

the risk to the health or safety of any person, including an individual outside of New South Wales.

(5) In this clause:

certification agency means the Mining Competence Board and any agency in any other Australian jurisdiction that exercises functions in relation to the certification of the competency of workers in mines, including any of the following agencies:

- (a) the Queensland Department of Natural Resources and Mines,
- (b) the Western Australian Department of Mines and Petroleum,
- (c) SafeWork SA of South Australia,
- (d) the South Australian Department of State Development,
- (e) the Northern Territory Work Health Authority,
- (f) WorkSafe ACT,
- (g) WorkSafe Tasmania,
- (h) Victorian WorkCover Authority.

holder of a practising certificate includes a reference to the holder of an interstate practising certificate.

Division 4 Certificates of competence

146 Eligibility for certificate of competence

- (1) An individual is eligible to hold a certificate of competence in respect of a statutory function if the regulator is satisfied that the individual is competent to exercise that function.
- (2) The regulator may require an individual to satisfy any one or more of the following criteria before the regulator will determine that the individual is competent to exercise a particular statutory function:
 - (a) the individual must have completed a specified course or passed a specified examination,
 - (b) the individual must hold specified qualifications,
 - (c) the individual must have specified experience,
 - (d) the individual must be above a certain age.
- (3) In determining whether an individual is competent, the regulator is to take into account any assessment of the individual made by the Mining Competence Board.

147 Application for certificate of competence

- (1) An application for a certificate of competence must be made in the manner and form required by the regulator.
- (2) An application is to be accompanied by the fee (if any) determined by the regulator.

148 Grant of certificate of competence

- (1) The regulator may grant a certificate of competence and may grant the certificate of competence unconditionally or subject to conditions.
- (2) The regulator must refuse to grant a certificate of competence if satisfied that the applicant is not eligible to hold the certificate.
- (3) In granting a certificate of competence to an individual, the regulator is to take into account any recommendations of the Mining Competence Board with regard to the granting of the certificate.

- (4) The regulator must give an applicant written notice of a refusal to grant a certificate of competence with the reasons for the refusal.
- (5) More than one certificate of competence may be issued to an individual under this clause, whether as a replacement or renewal of an existing certificate or as a separate certificate that demonstrates that the individual is competent to exercise another statutory function.

149 Condition of certificate of competence

It is a condition of a certificate of competence that the holder of the certificate must, if required by the regulator by notice in writing, provide, within the time (if any) specified in the notice, specified information relating to the individual's competence or any other matter relating to the certificate of competence.

150 Cancellation of certificate of competence

- (1) The regulator may cancel a certificate of competence if satisfied that:
 - (a) the holder of the certificate is not eligible to hold the certificate, or
 - (b) the holder of the certificate has contravened a condition of the certificate, or
 - (c) the method by which the holder of the certificate was assessed as being competent was inadequate, or
 - (d) the certificate was improperly obtained, whether on the basis of false or misleading information or otherwise, or
 - (e) the holder has been convicted of an offence under the WHS laws, a corresponding WHS law, the *Explosives Act 2003* or the *Radiation Control Act 1990* or any former law of this State dealing with work health and safety.
- (2) Before cancelling a certificate of competence, the regulator must:
 - (a) cause notice to be given to the holder of the certificate, and
 - (b) give the holder of the certificate a reasonable opportunity to make representations to the regulator, and
 - (c) have regard to any representations so made.
- (3) The cancellation of a certificate of competence takes effect on the date on which written notice of the cancellation is given to the holder of the certificate or on such later date as may be specified in the notice.
- (4) A notice cancelling a certificate of competence must specify the reason why the certificate is cancelled.

151 Register of certificates of competence

- (1) The regulator is to maintain a register of certificates of competence.
- (2) The register is to include the name of the holder of each certificate of competence and the individual's gender and place and date of birth.

Part 9 Licensed activities at coal mines

152 Activities to which Part applies

- (1) This Part applies to the activities of sampling or analysing airborne dust under Schedule 6 at, or with respect to, a coal mine.
- (2) This Part also applies to the following activities if those activities are carried out at, or with respect to, an underground coal mine:
 - (a) the sampling or analysing of diesel engine exhaust under clause 75,
 - (b) any overhauling, repairing or modifying activities that may affect the explosion-protection properties of explosion-protected plant,
 - (c) any repairing of flexible reeling, feeding or trailing cables for use in a hazardous zone,
 - (d) undertaking a polymeric process.

153 Activity not to be carried on without a licence

- (1) A person must not carry out an activity to which this Part applies unless the activity is carried out under, and in accordance with, a licence.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (2) The mine operator of an underground coal mine must ensure that no person carries out an activity to which this Part applies at, or with respect to, the mine unless the activity is carried out under, and in accordance with, a licence.
Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.

154 Eligibility for licence

A person is eligible to hold a licence if the regulator is satisfied that all activities carried out under the licence will:

- (a) be supervised by a competent person, and
- (b) be carried out by workers who will have had training in safe working methods in relation to the activity and each of those workers will have completed a course of training specified by the regulator in relation to the activity or will have appropriate experience or training in the carrying out of the activity, and
- (c) be carried out using procedures, equipment and facilities that are suitable for those activities.

155 Application for licence

- (1) An application for a licence must be made in the manner and form required by the regulator.
- (2) An application is to be accompanied by the fee (if any) determined by the regulator.

156 Grant of licence

- (1) The regulator may grant a licence and may grant the licence unconditionally or subject to conditions.

- (2) The regulator must refuse to grant a licence unless satisfied that the applicant is eligible to hold the licence.
- (3) The regulator must give an applicant written notice of a refusal to grant a licence with the reasons for the refusal.
- (4) A licence remains in force, unless sooner cancelled, for a period of 5 years commencing on the date on which it is granted, or for such lesser period as may be specified in the licence.
- (5) A licence is not in force during any period that it is suspended.

157 Conditions

- (1) The regulator may, by written notice to a licence holder, impose conditions on the licence or may vary or revoke any condition imposed by the regulator.
- (2) It is a condition of a licence that any person who carries on an activity under a licence must cause a copy of the licence to be displayed or available for examination while the activity is being carried out.
- (3) It is a condition of a licence that no activity is to be carried out under the licence in such a manner as to expose a person to a health or safety risk that can reasonably be avoided.
- (4) It is a condition of a licence that any work carried on under the licence will be carried out by a person who is competent to carry out the work.
- (5) It is a condition of a licence that any work involving the repairing of flexible reeling, feeding or trailing cables is certified by an individual holding a cable repair signatory certificate of competence.
- (6) For the purposes of Division 4 (Certificates of competence) of Part 8 and clause 166 (Functions of Board), the function of certifying any work involving the repairing of flexible reeling, feeding or trailing cables is taken to be a statutory function.

158 Suspension or cancellation of licences

- (1) The regulator may suspend or cancel a licence if satisfied that the person who holds the licence:
 - (a) is not eligible to hold the licence, or
 - (b) has contravened a condition of the licence, or
 - (c) has failed to comply with the requirements of an improvement notice or prohibition notice under the WHS laws, or
 - (d) has obtained the licence improperly, whether on the basis of false or misleading information or otherwise, or
 - (e) has been convicted of an offence under the WHS laws, a corresponding WHS law, the *Explosives Act 2003* or the *Radiation Control Act 1990* or any former law of this State dealing with work health and safety.
- (2) Before suspending or cancelling a licence, the regulator must:
 - (a) cause notice to be given to the holder of the licence, and
 - (b) give the holder of the licence a reasonable opportunity to make representations to the regulator, and
 - (c) have regard to any representations so made.
- (3) The suspension or cancellation of a licence takes effect on the date on which written notice of the suspension or cancellation is given to the holder of the licence or on such later date as may be specified in the notice.

- (4) The holder of a cancelled licence must return the licence to the regulator within such period as may be specified in the notice of cancellation.

Maximum penalty:

- (a) in the case of an individual—\$1,250, or
- (b) in the case of a body corporate—\$6,000.

Part 10 Mine Safety Advisory Council

Note. Schedule 11 contains provisions with respect to the members of the Council.

159 Definitions

In this Part:

Council means the Mine Safety Advisory Council.

member means member of the Council.

160 Membership of Council

- (1) The Council is to consist of the following members appointed by the Minister:
 - (a) one or more persons nominated by each of the following bodies to represent employers:
 - (i) the NSW Minerals Council (in respect of employers in the coal sector),
 - (ii) the NSW Minerals Council (in respect of employers in the metalliferous sector),
 - (iii) Cement Concrete & Aggregates Australia,
 - (b) one or more persons nominated by each of the following bodies to represent employees:
 - (i) the Construction, Forestry, Mining and Energy Union, Mining and Energy Division,
 - (ii) the Australian Workers Union, Greater New South Wales Branch,
 - (c) the Secretary of the Department or a representative of the Department nominated by the Secretary,
 - (d) one or more persons who, in the Minister's opinion, are independent of the bodies referred to in paragraphs (a) or (b) and also have expertise that would be of assistance to the Council.
- (2) The Minister is to appoint a person appointed under subclause (1) (d) as Chairperson of the Council.
- (3) The secretary of the Council is to be an officer of the Department appointed by the Secretary.
- (4) Equal numbers of persons are to be appointed under subclause (1) (a) and (b).
- (5) The Minister may decline to accept the nomination of any candidate.
- (6) If a body referred to in subclause (1) (a) or (b) fails to nominate a candidate within 60 days after being requested to do so by the Minister, or fails to nominate within that period a candidate whose nomination is accepted by the Minister, the Minister may appoint any person whom the Minister considers suitable to represent the interests of the body as a member of the Council, instead of a person nominated by the body.

161 Functions of Council

For the purposes of section 61 (b) of the WHS (Mines) Act, the prescribed functions of the Council are:

- (a) to advise the Minister on any matter, other than a policy matter, relating to work health and safety in mines that is referred to it by the Minister, and
- (b) to advise the Minister on any other matter, other than a policy matter, relating to work health and safety in mines that it considers relevant.

Note. Section 61 (a) of the WHS (Mines) Act provides that the Council has the function of providing advice to the Minister on any policy matter relating to work health and safety in mines.

162 Procedure of Council

- (1) The Council must, as soon as is reasonably practicable, adopt a constitution that addresses each of the following matters:
 - (a) the procedure for calling of Council meetings and the frequency of such meetings,
 - (b) the procedure for the conduct of Council meetings,
 - (c) who is to preside at Council meetings,
 - (d) whether meetings can be transacted remotely, and if so, how this is to occur,
 - (e) the disclosure of pecuniary interests by members of the Council,
 - (f) the establishment of, and procedure for, committees of the Council.
- (2) At any time that there is no such constitution in force, the procedures set out in Part 2 of Schedule 7 to the *Mining Regulation 2010* (as in force immediately before the repeal of that Regulation) apply as the procedures of the Council.

Part 11 Mining Competence Board

163 Definition

In this Part:

member means member of the Board.

164 Membership of Board

- (1) Each member of the Board appointed by the Minister to represent the interests of employers in the mining industry is to be selected from persons nominated by:
 - (a) the NSW Minerals Council, or
 - (b) Cement Concrete & Aggregates Australia.
- (2) Each member of the Board appointed by the Minister to represent the interests of workers in the mining industry are to be selected from persons nominated by:
 - (a) the Construction, Forestry, Mining and Energy Union, Mining and Energy Division, or
 - (b) the Australian Workers' Union, Greater New South Wales Branch.
- (3) The Minister may decline to accept the nomination of any candidate.
- (4) If a body referred to in subclause (1) or (2) fails to nominate a candidate within 60 days after being requested to do so by the Minister, or fails to nominate within that period a candidate whose nomination is accepted by the Minister, the Minister may appoint any person whom the Minister considers suitable to represent the interests of the body as a member of the Board, instead of a person nominated by the body.
- (5) A member may be represented at any meeting by a delegate of the member who is taken to have all the functions of the member at the meeting.
- (6) A member may, by instrument in writing, appoint any person to be the member's delegate. However, a member cannot appoint a person whose nomination as a candidate has been declined under subclause (3), unless the member has first obtained the written consent of the Minister.

165 Chairperson of the Board

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

166 Functions of Board

- (1) The Board has the following functions:
 - (a) to advise the regulator on the training, qualifications, experience, knowledge or skills required for the exercise of statutory functions,
 - (b) to advise the regulator on the conduct of assessments, including the nature, type and manner of assessments,
 - (c) to make recommendations to the regulator in relation to conditions that may be imposed on a practising certificate,
 - (d) to ensure, as far as possible, that the competency required under this Regulation in respect of the exercise of a statutory function is consistent with

- the competency required in other Australian jurisdictions for the exercise of the statutory function,
- (e) to recommend to the regulator requirements in relation to the maintenance of competency for holders of practising certificates.
- (2) In exercising its functions the Board is to ensure that it exercises them as consistently as is reasonably practicable with bodies exercising similar functions in other Australian jurisdictions and to that end it is:
- (a) to consult with those bodies, and
 - (b) to take into consideration the effective movement of workers between jurisdictions when making recommendations.
- (3) The Board may consider any one or more of the following when assessing whether a person is competent to exercise a statutory function:
- (a) the person's qualifications,
 - (b) the person's learning and experience,
 - (c) how the person performs in an exam,
 - (d) the results of any previous assessment of the person.

167 Committees of Board

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

Part 12 Safety and health representatives at coal mines

168 Qualifications of safety and health representatives

- (1) A person is eligible to be appointed as an industry safety and health representative if the person:
 - (a) holds the qualifications required to be nominated to exercise the statutory function of deputy or open cut examiner, and
 - (b) has completed a course of training that is accredited by the regulator for the purposes of section 45 of the WHS (Mines) Act.
- (2) A person is eligible to be appointed as a site safety and health representative at a coal mine if the person:
 - (a) is a worker at the coal mine, and
 - (b) has worked in the coal mine or coal mines of that class for at least 3 years.
- (3) A person is eligible to be appointed as an electrical safety and health representative at a coal mine if the person:
 - (a) holds the qualifications required to be nominated to exercise the statutory function of electrical tradesperson, and
 - (b) has worked in coal mines for at least 5 years.

169 Election and removal of mine safety and health representative

- (1) This clause sets out procedural requirements for the election of a mine safety and health representative for a coal mine for the purposes of section 39 (1) of the WHS (Mines) Act.
- (2) The mine operator of the mine, any union that represents workers at the mine and the majority of workers at the mine are to determine how the election of mine safety and health representatives for the mine is to be conducted.
- (3) The regulator may, if reasonably satisfied that an agreement cannot be reached, give a direction as to how the election is to be conducted, including, if necessary, by directing the mine operator to appoint an independent person, being a person who is specified in the direction or who belongs to a class specified in the direction, to conduct the election.
- (4) The election must be conducted in such a way that ensures the following:
 - (a) each person conducting a business or undertaking at the mine is informed of the date on which the election is to be held as soon as is reasonably practicable after the date is determined,
 - (b) all workers at the mine are given an opportunity to:
 - (i) nominate for the position to be elected (if eligible to be appointed to that position), and
 - (ii) vote in the election,
 - (c) all workers at the mine and all relevant persons conducting a business or undertaking at the mine are informed of the outcome of the election.
- (5) For the purposes of section 40 (2) (d) of the WHS (Mines) Act, the majority of the workers at a mine may remove a mine safety and health representative for the mine if those workers sign a written declaration that the representative should no longer represent the workers.

- (6) A worker nominated by the workers who signed the declaration must, as soon as is reasonably practicable:
 - (a) inform the mine safety and health representative who has been removed and the mine operator of the mine of the removal, and
 - (b) take reasonable steps to inform all workers and persons conducting a business or undertaking at the mine of the removal.
- (7) The removal of the mine safety and health representative takes effect when the persons referred to in subclause (6) (a) have been informed of the removal.

170 Offences relating to elections

- (1) The mine operator of a coal mine must:
 - (a) provide any resources, facilities and assistance that are reasonably necessary to enable elections of mine safety and health representatives for the mine to be conducted, and
 - (b) if given a direction by the regulator under clause 169 (3)—appoint, in accordance with the direction, an independent person to conduct the election to which the direction relates and pay the costs of that person conducting the election.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
 - (b) in the case of a body corporate—\$18,000.
- (2) A person conducting a business or undertaking at a coal mine must not unreasonably delay the election of a mine safety and health representative for the mine.

Maximum penalty:

- (a) in the case of an individual—\$3,600, or
- (b) in the case of a body corporate—\$18,000.

171 Safety and health representatives taken to be health and safety representatives

- (1) A mine safety and health representative for a coal mine is taken, for the purposes of the following provisions, to be a health and safety representative under the WHS Act for a work group at the mine, as if the work group comprised all the workers at the mine:
 - (a) Subdivision 6 of Division 3 of Part 5 of the WHS Act,
 - (b) sections 66, 80 and 106 of the WHS Act,
 - (c) any provision of the WHS Act or the WHS Regulations that requires a person to consult with or give any notice or information to the health and safety representative or that gives the health and safety representative a right to access information including the following:
 - (i) section 48 (2) of the WHS Act,
 - (ii) clause 263 (3) (b), 403 (3), 404 (2), 427, 429, 430, 432, 465 or 475 of the WHS Regulations.
- (2) An industry safety and health representative is taken, for the purposes of section 72 of the WHS Act, to be a health and safety representative under the WHS Act for a work group, as if the work group comprised all workers at all coal mines.

172 Training of mine safety and health representatives

- (1) The regulator must not accredit a course of training for the purposes of section 45 of the WHS (Mines) Act unless the regulator is satisfied that the course comprises at least 5 days' training.
- (2) In accrediting any such course of training, the regulator is to take into account any matters that the regulator considers to be relevant including:
 - (a) the content and quality of the course and its relevance to the functions of a safety and health representative (including where such a representative is exercising the powers and functions of a health and safety representative under the WHS Act), and
 - (b) the qualifications, knowledge and experience of the person who is to provide the course.
- (3) For the purposes of section 72 (1) (b) of the WHS Act, the course of training under this clause is a course of training that a mine safety and health representative or an industry safety and health representative is entitled to attend rather than a course of training specified in clause 21 of the WHS Regulations.

Note. This means that a safety and health representative who completes the course can give directions to cease work under section 85 of the WHS Act or issue provisional improvement notices under section 90 of that Act when exercising the functions of health and safety representatives.

Part 13 Miscellaneous

173 Tourist mines

For the purposes of section 6 (2) (b) of the WHS (Mines) Act, all principal mining hazards are prescribed as hazards.

174 Government officials

For the purposes of section 18 (3) (d) of the WHS (Mines) Act, persons who hold tertiary qualifications in any one or more of the following areas are prescribed as a class of persons:

- (a) engineering,
- (b) occupational health and safety,
- (c) law,
- (d) policing,
- (e) regulatory studies.

175 Reviewable decisions

Decisions made under the following provisions of this Regulation are decisions that are reviewable under Part 11.1 of the WHS Regulations and the persons specified in respect of those provisions are eligible persons for the purposes of that Part:

- (a) clause 8 (1) (a decision to give a notice)—the mine holder to whom the notice is given,
- (b) clause 33 (4) (a decision of the regulator that a notice is inadequate)—the mine operator of the mine at which the high risk activity is to take place,
- (c) clause 33 (7) (a decision of the regulator to extend the waiting period)—the mine operator of the mine at which the high risk activity is to take place,
- (d) clause 109 (2) (a decision of the regulator to give a direction to provide health monitoring to a worker)—the mine operator to whom the direction is given,
- (e) clause 122 (3) (d) (a decision of the regulator that a mine survey plan is required for a mine)—the mine operator of the mine,
- (f) clause 141 (a decision of the regulator to refuse to grant a practising certificate or to grant a practising certificate subject to conditions)—the applicant for the practising certificate,
- (g) clause 143 (a decision of the regulator to impose a condition on a practising certificate or to vary or revoke a condition of a practising certificate)—the holder of the practising certificate,
- (h) clause 144 (a decision of the regulator to suspend or cancel a practising certificate)—the holder of the practising certificate,
- (i) clause 148 (a decision of the regulator to refuse to grant a certificate of competence or to grant a certificate of competence subject to conditions)—the applicant for the certificate of competence,
- (j) clause 150 (a decision of the regulator to cancel a certificate of competence)—the holder of the certificate of competence,
- (k) clause 156 (a decision of the regulator to refuse to grant a licence or to grant a licence subject to conditions)—the applicant for the licence,
- (l) clause 157 (a decision of the regulator to impose a condition on a licence or to vary or revoke a condition of a licence)—the holder of the licence,

- (m) clause 158 (a decision of the regulator to suspend or cancel a licence)—the holder of the licence.

176 Qualifications of inspectors

For the purposes of section 19 (b) of the WHS (Mines) Act, the following qualifications are prescribed:

- (a) for a person who is to be the inspector of mines for a mine—the qualifications required to be nominated to exercise the statutory function of mining engineering manager or quarry manager at the mine to which the person's inspections will relate,
- (b) for a person who is to be the inspector of mechanical engineering for a mine—the qualifications required to be nominated to exercise the statutory functions of mechanical engineering manager or mechanical engineer at the mine to which the person's inspections will relate, or a bachelors degree in mechanical engineering,
- (c) for a person who is to be the inspector of electrical engineering for a mine—the qualifications required to be nominated to exercise the statutory functions of electrical engineering manager or electrical engineer at the mine to which the person's inspections will relate.

177 Registration of plant designs and items of plant

- (1) For the purposes of section 42 of the WHS Act, the design of the following items of plant must be registered under Part 5.3 of the WHS Regulations if they are used in an underground coal mine:
 - (a) diesel engine systems,
 - (b) booster fans,
 - (c) braking systems on plant used in underground transport,
 - (d) canopies on continuous miners,
 - (e) electrically powered hand-held plant, fixed installations and installations on mobile plant (but not tube bundle systems where the analyser is installed at the surface) used to determine or monitor the presence of gas,
 - (f) breathing apparatus to assist escape (including self-rescuers),
 - (g) shotfiring apparatus (including exploders and circuit testers),
 - (h) detonators,
 - (i) explosive-powered tools,
 - (j) conveyor belting.
- (2) For the purposes of section 42 of the WHS Act, the design of a winding system must be registered under Part 5.3 of the WHS Regulations if it is used in a mine.
- (3) For the purposes of section 42 of the WHS Act, winding systems must be registered under Part 5.3 of the WHS Regulations if they are used in a mine. Despite clause 272 of the WHS Regulations, registration of winding systems takes effect on the day it is granted and expires one year after that day.
- (4) For the purposes of section 42 of the WHS Act, the following items of plant must be registered under Part 5.3 of the WHS Regulations if they are used in an underground coal mine (and, despite clause 272 of the WHS Regulations, registration of any such item takes effect on the day it is granted and expires one year after that day):
 - (a) diesel engine systems,
 - (b) booster fans.

- (5) The regulator may, by order published in the Gazette, specify standards in respect of plant that is required to be registered, or the design of which is required to be registered, by subclauses (1)–(4).
- (6) Plant or the design of the plant cannot be registered under Part 5.3 of the WHS Regulations if a standard is specified under subclause (5) and the plant or the design of the plant does not comply with that standard.
- (7) For the purposes of any registration required by this clause, a reference in Part 5.2 or 5.3 of the WHS Regulations to the regulator is to be construed as a reference to the regulator under the WHS (Mines) Act.
- (8) A person who is a manufacturer, importer or supplier must not supply plant, the design of which is not registered under Part 5.3 of the WHS Regulations, if:
 - (a) this clause requires the design of the plant to be registered under that Part if the plant is used in any mine or in a mine of a particular class, and
 - (b) the person knows, or reasonably suspects, that the plant will be used in such a mine.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
- (9) A person who conducts a business or undertaking that commissions plant must not commission an item of plant that has not been registered under Part 5.3 of the WHS Regulations if the item of plant:
 - (a) is to be used in a mine, and
 - (b) is required by this clause to be registered under that Part for use in that mine.Maximum penalty:
 - (a) in the case of an individual—\$6,000, or
 - (b) in the case of a body corporate—\$30,000.
 - (10) Nothing in subclause (9) prevents a person from performing any necessary adjustments, tests or inspections as part of the commissioning process before the plant is commissioned at a workplace.
 - (11) This clause does not have effect until 1 July 2015.

178 Serious injury or illness

For the purposes of section 14 (b) of the WHS (Mines) Act, each of the following is prescribed as a serious injury or illness of a person:

- (a) an injury or illness requiring the person to have immediate treatment as an in-patient in a hospital,
- (b) an injury or illness requiring the person to have immediate treatment for any of the following:
 - (i) the amputation of any part of his or her body,
 - (ii) a serious head injury,
 - (iii) a serious eye injury,
 - (iv) a serious burn,
 - (v) the separation of his or her skin from an underlying tissue (such as degloving or scalping),
 - (vi) a spinal injury,
 - (vii) the loss of a bodily function,

- (viii) serious lacerations,
- (c) an injury or illness requiring the person to have medical treatment within 48 hours of exposure to a substance,
- (d) a fracture to a person's bone other than a bone in the person's hand (including a finger) or foot (including a toe),
- (e) a condition prescribed as a serious illness for the purposes of section 36 of the WHS Act.

Note. See clause 699 of the WHS Regulations.

179 Dangerous incidents

For the purposes of section 14 (c) of the WHS (Mines) Act, each of the following is prescribed as a dangerous incident:

- (a) an incident in relation to a workplace that exposes a worker or any other person to a serious risk to a person's health or safety emanating from an immediate or imminent exposure to:
 - (i) an uncontrolled escape, spillage or leakage of a substance, or
 - (ii) an uncontrolled implosion, explosion or fire, or
 - (iii) an uncontrolled escape of gas or steam, or
 - (iv) an uncontrolled escape of a pressurised substance, or
 - (v) the fall or release from a height of any plant, substance or thing, or
 - (vi) the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised within the meaning of Part 4 of the WHS Act, or
 - (vii) the collapse or partial collapse of a structure, or
 - (viii) the collapse or failure of an excavation or of any shoring supporting an excavation, or
 - (ix) the inrush of water, mud or gas in workings in an underground excavation or tunnel, or
 - (x) the unintended interruption of the main system of ventilation in an underground excavation or tunnel, or
 - (xi) the loss of control of heavy earthmoving machinery (including any failure of braking or steering), or
 - (xii) the unintended activation, movement, or failure to stop of vehicles or machinery, or
 - (xiii) a collision involving a vehicle or mobile plant, or
 - (xiv) damage to, or failure of, any part of a powered winding system or a shaft or shaft equipment, or
 - (xv) damage to any plant or structure, or
 - (xvi) a failure of ground, or of slope stability control measures, or
 - (xvii) rock falls, instability of cliffs, steep slopes or natural dams, occurrence of sinkholes, development of surface cracking or deformations or release of gas at the surface, due to subsidence, or
 - (xviii) a vehicle or plant making contact with an energised source having a voltage greater than 1,200 volts (other than testing equipment applied to energised equipment in accordance with the WHS Regulations),
- (b) a fire in the underground parts of a mine, including where the fire is in the form of an oxidation that releases heat and light,
- (c) an electric shock to a person (other than a shock from an extra low voltage source),

- (d) any initial indication that any underground part of a coal mine is subject to windblast, outbursts or spontaneous combustion,
- (e) the unintended overturning of any vehicle or of plant weighing more than 1,000 kilograms,
- (f) ejection of rock from blasting that falls outside the blast exclusion zone (being the area from which persons are excluded during the blasting).

180 Prohibition notices

For the purposes of section 50 (2) (c) of the WHS (Mines) Act, the following provisions of this Regulation are prescribed:

- (a) clause 9 (Management of risks to health and safety),
- (b) clause 13 (Duty to establish and implement safety management system),
- (c) clause 33 (Notification of high risk activities) other than clause 33 (3).

181 Corresponding WHS laws

For the purposes of the definition of *corresponding WHS laws* in section 4 of the WHS Act, the following are prescribed as corresponding WHS laws:

- (a) the *Coal Mining Safety and Health Act 1999* of Queensland and the *Mining and Quarrying Safety and Health Act 1999* of Queensland,
- (b) the *Occupational Health and Safety Act 2004* of Victoria,
- (c) the *Mine Safety and Inspection Act 1994* of Western Australia and the *Occupational Safety and Health Act 1984* of Western Australia.

182 Fees

- (1) In addition to any other fee payable to the regulator under this Regulation, the regulator may determine a fee for any service provided by the regulator.
- (2) The regulator may reduce, or waive payment of, any fee payable to the regulator under this Regulation.

183 Exemptions for mines where only non-mechanical exploration occurs

- (1) In this clause,
non-mechanical exploration means exploring for minerals (other than by mechanical means that disturb the ground) and includes the following:
 - (a) geological mapping,
 - (b) sampling and coring using hand-held equipment,
 - (c) geophysical surveying (but not seismic surveying) and borehole logging,
 - (d) access by vehicle (but not if access requires the construction of an access way such as a track or road),
 - (e) shallow reconnaissance drilling involving no more than minimal site preparation,
 - (f) minor excavations (but not costeaning or bulk sampling).
- (2) This clause applies to a mine at which the only mining operation carried out is non-mechanical exploration.
- (3) A mine to which this clause applies is exempt from the following provisions of this Regulation:
 - (a) clauses 6–8,
 - (b) Parts 2–5,

- (c) clauses 129 and 130,
 - (d) Parts 7–9,
 - (e) clause 177,
 - (f) Schedules 1–7, 9 and 10.
- (4) Mining operations are, for the purposes of clause 129, taken to commence at a mine to which this clause applies as soon as mining operations other than non-mechanical exploration commence at the mine.

184 Exemptions for certain gemstone mines and tourist mines

- (1) This clause applies to the following mines:
- (a) an opal mine,
 - (b) an underground mine that is a small gemstone mine,
 - (c) a tourist mine.
- (2) A mine to which this clause applies is exempt from the following provisions of this Regulation:
- (a) Divisions 2 and 3 of Part 2,
 - (b) clauses 14 (1) (c), 27, 55, 59 (3), 60, 62, 63, 100 and 130.
- (3) The safety management system document for a mine to which this clause applies is not required to set out the matters in clause 14 (1) (c) but must instead set out the systems, procedures, plans and other control measures that will be used to control any risks to health and safety at the mine associated with the following:
- (a) ground or strata failure,
 - (b) inundation or inrush of any substance,
 - (c) mine shafts and winding systems,
 - (d) roads or other vehicle operating areas,
 - (e) air quality or dust or other airborne contaminants,
 - (f) the mechanical aspects of plant or structures,
 - (g) electricity,
 - (h) ventilation,
 - (i) a hazard identified by the mine operator under clause 34 of the WHS Regulations that has a reasonable potential to result in multiple deaths in a single incident or a series of recurring incidents.

185 Exemptions granted by regulator during first 12 months

- (1) The regulator may exempt a person, or class of persons, from any provision of this Regulation either unconditionally or subject to conditions.
- (2) An exemption may be granted on application by the person or on the regulator's own initiative.
- (3) An exemption under this clause applies in respect of a person only if the person complies with any conditions to which the exemption is subject.
- (4) This clause ceases to have effect 12 months after the commencement of this clause.

Schedule 1 Principal mining hazard management plans— additional matters to be considered

(Clause 24)

(Sch 19 model WHS Regs)

1 Ground or strata failure

- (1) The following matters must be considered in developing the control measures to manage the risks of ground or strata failure:
 - (a) the local geological structure,
 - (b) the local hydrogeological environment, including surface and ground water,
 - (c) the means by which water may enter the mine, and the procedures for removing water from the mine and the effect that those procedures have on rock stability over time,
 - (d) the geotechnical characteristics of the rocks and soil, including the effects of time, oxidation and water on rock support and stability,
 - (e) the timing of installation of ground and strata support for the mine, taking into account the geotechnical conditions and behaviour of the rocks and soil,
 - (f) the collection, analysis and interpretation of relevant geotechnical data, including the monitoring of openings and excavations,
 - (g) any natural or induced seismic activity,
 - (h) the equipment and procedures used to record, interpret and analyse data from the monitoring of seismic activity,
 - (i) the location and loadings from existing or proposed mine infrastructure such as waste dumps, tailings storage, haul roads and mine facilities,
 - (j) any previously excavated or abandoned workings,
 - (k) the proposed and existing mining operations, including the nature and number of excavations, the number and size of permanent or temporary voids or openings, backfilling of mined areas and stopes, abutments, periodic weighting and windblast or airblast,
 - (l) the proposed blasting activities (including the design, control and monitoring of each blast),
 - (m) the design, layout, operation, construction and maintenance of any dump, stockpile or emplacement area at the mine, including any open cut dumps or stockpiles,
 - (n) the filling requirements for mined areas and the material to be used as fill,
 - (o) the stability of any slopes,
 - (p) the size and geometry of the mine's openings,
 - (q) the use of appropriate equipment and procedures for scaling,
 - (r) the design, installation and quality of rock support and reinforcement,
 - (s) the need to monitor areas at or around the mine where control measures are in place for the principal mining hazard of ground or strata failure,
 - (t) in the case of an underground mine—the stope and pillar dimensions,
 - (u) in the case of an underground coal mine—the strata support requirements for the mine and the pillar strength and stability required to provide that support and the probability of instability of any pillar taking into account the pillar's role,

- (v) in the case of highwall mining, pillar and highwall support, the interaction of persons and plant.
- (2) In determining the strata support requirements under subclause (1) (u), the maximum width between pillars and the minimum possible dimension of any such pillar for each part of the mine are to be included in the principal mining hazard management plan along with the calculations used to determine those matters.
- (3) A principal mining hazard management plan that addresses ground or strata failure is to include a statement that makes clear that any requirements in the plan for ground and strata support are a minimum requirement only and additional strata support such as more frequent rock bolt installations is always permitted.

2 Inundation or inrush of any substance

- (1) The following matters must be considered in developing the control measures to manage the risks of inundation or inrush of any substance:
 - (a) the potential sources of inundation, including extreme weather, overflow or failure of levies and dam structures, failure or blocking of flow channels (including regular, overflow or emergency flow channels),
 - (b) the location, design and construction of dams, lagoons, tailings dams, emplacement areas and any other bodies of water or material that could enter the mine, including any such entry because of extreme weather conditions such as a cyclone,
 - (c) the potential sources of inrush including current, disused or abandoned mine workings, surface water bodies, backfill operations, highly permeable aquifers, bore-holes, faults or other geological weaknesses,
 - (d) the location of other workings and the strength of the ground (including the geotechnical characteristics of the rock) between those workings,
 - (e) the potential for the accumulation of water, gas or other substances or materials that could liquefy or flow into other workings or locations,
 - (f) the magnitude of all potential sources and maximum flow rates,
 - (g) the worst possible health and safety consequences of each potential source, including the accuracy of plans of other workings, variation in rock properties and geological weaknesses,
 - (h) survey plans of the mine including any historical survey plans.
- (2) A principal mining hazard management plan that addresses inundation or inrush of any substance is to include details of any special systems of working developed for inrush control zones established under clause 45 of this Regulation and the assumptions underpinning the development of any such system.

3 Mine shafts and winding systems

The following matters must be considered in developing the control measures to manage the risks associated with mine shafts and winding systems:

- (a) the potential for instability and loss of integrity of the shaft,
- (b) the potential for fires in underground operations, the shaft or winder areas,
- (c) the potential for any unintended or uncontrolled movement of conveyances within the shaft,
- (d) the potential for a conveyance to fall down the shaft,

- (e) the potential for failure of, or damage to, equipment and control measures, including the following:
 - (i) control measures that are intended to prevent any shaft conveyance from overwind, excessive acceleration or deceleration, unsafe or excessive speeds or uncontrolled movement,
 - (ii) control measures that are intended to detect the presence of slack rope, drum slip conditions or unsafe tail rope conditions,
 - (iii) braking systems and systems performing an equivalent function that are intended to ensure that the winder remains under control,
 - (iv) warning systems that are intended to alert persons at the mine to any emergency in a winding system,
 - (v) communication systems,
- (f) the potential for injury to a person from:
 - (i) material being carried in a conveyance with the person, or
 - (ii) material falling from a conveyance, or
 - (iii) the person falling from a conveyance, or
 - (iv) a part of the person extending out of the conveyance,
- (g) provision for the emergency exit of persons from a conveyance.

4 Roads or other vehicle operating areas

The following matters must be considered in developing the control measures to manage the risks of roads or other vehicle operating areas:

- (a) mobile plant characteristics, including stopping distances, manoeuvrability, operating speeds, driver position, driver line of sight and remote control mobile plant,
- (b) the effect on road conditions of expected environmental conditions during operating periods (including time of day, weather, temperature and visibility),
- (c) the impact of road design and characteristics, including grade, camber, surface, radius of curves and intersections,
- (d) the impact of mine design, including banks and steep drops adjacent to vehicle operating areas,
- (e) the volume and speed of traffic and the potential for interactions between mobile plant with different operating characteristics, including heavy and light vehicles,
- (f) the potential for interactions between mobile plant and pedestrians, including consideration of park up areas and driver access,
- (g) the potential for interaction between mobile plant and public traffic,
- (h) the potential for interaction between mobile plant and fixed structures, including overhead and underground power lines, tunnel walls and roofs.

5 Air quality or dust or other airborne contaminants

The following matters must be considered in developing the control measures to manage the risks of air quality or dust or other airborne contaminants:

- (a) the types of dust and other chemical and biological contaminants likely to be in the air from both natural sources, including naturally occurring asbestos, and introduced sources,
- (b) the levels of oxygen, dust and other contaminants in the natural or supplied air of a mine,

- (c) the temperature and humidity of the air,
- (d) the length of exposure, having regard to extended shifts and reduced recovery periods.

6 Fire or explosion

- (1) The following matters must be considered in developing the control measures to manage the risks of fire or explosion:
 - (a) the potential sources of flammable, combustible and explosive substances and materials, both natural and introduced, including gas, dust, ores, fuels, solvents and timber,
 - (b) the potential sources of ignition, fire or explosion, including plant, electricity, static electricity, spontaneous combustion, lightning, light metal alloys, hot work and other work practices,
 - (c) the potential for propagation of fire or explosion to other parts of the mine,
 - (d) the potential sources of flammable material with a flash point of less than 61° Celsius, including materials on the top of any shaft or outlet at the mine,
 - (e) arrangements for the management and control of the transport and storage of combustible liquids,
 - (f) arrangements for the prevention of fires, including the types and location of systems for the early detection and suppression of fires,
 - (g) the equipment for fighting fire at the mine,
 - (h) in the case of an underground mine—the arrangements for the management and control of volatile or hazardous materials.
- (2) A principal mining hazard management plan that addresses fire or explosion is to include details of any procedures to be used for carrying out hot work at the mine.

7 Gas outbursts

The following matters must be considered in developing the control measures to manage the risks of gas outbursts:

- (a) the potential for gas to be released into the working area of a mine from both natural and introduced sources in a concentration that could lead to fire, explosion or asphyxiation,
- (b) the potential for the accumulation of gas in working areas and abandoned areas of the mine,
- (c) the nature of the gas that could be released,
- (d) the gas levels in the material being mined,
- (e) gas seam pressures,
- (f) in the case of a coal mine—Australian Standard AS 3980–1999, *Guide to the determination of gas content of coal—Direct desorption method*.

8 Spontaneous combustion

The following matters must be considered in developing the control measures to manage the risks of spontaneous combustion:

- (a) the potential for spontaneous combustion to occur in the material being mined, including by:
 - (i) evaluating the history of the mine in relation to spontaneous combustion, and

- (ii) evaluating any adjacent or previous mining operations in the same seam, and
- (iii) conducting scientific testing,
- (b) mine ventilation practices,
- (c) the design of the mine,
- (d) the impact of gas generated by spontaneous combustion on mine environmental conditions.

9 Subsidence

The following matters must be considered in developing the control measures to manage the risks of subsidence:

- (a) the characteristics of all relevant surface and subsurface features,
- (b) the characteristics of all relevant geological, hydrogeological, hydrological, geotechnical, topographic and climatic conditions, including any conditions that may cause elevated or abnormal subsidence or the formation of sinkholes,
- (c) the characteristics of any previously excavated or abandoned workings that may interact with any proposed or existing mine workings,
- (d) the existence, distribution, geometry and stability of significant voids, standing pillars or remnants within any old pillar workings that may interact with any proposed or existing mine workings,
- (e) the predicted and actual nature, magnitude, distribution, timing and duration of subsidence,
- (f) the rate, method, layout, schedule and sequence of mining operations.

Schedule 2 Principal control plans—matters to be addressed

(Clause 26)

1 Health control plan

A health control plan for a mine must address the following:

- (a) the control measures for eliminating or minimising the exposure of workers to health hazards associated with mining operations at the mine such as dust, noise, hazardous substances, contaminants (airborne or otherwise), ultraviolet and ionising radiation and vibration,
- (b) the control measures to ensure that persons working at the mine are fit to carry out that work without causing a risk to their own or others' safety including the control measures for minimising the risk that a worker will be impaired by fatigue, extremes of temperature, moisture content of air or intoxication by alcohol or drugs,
- (c) the monitoring of the existence of the health hazards associated with mining operations at the mine and the exposure of workers to those hazards,
- (d) the arrangements for monitoring the health of workers at the mine in accordance with Part 3,
- (e) the management of health records (including first aid records) of workers at the mine.

2 Mechanical engineering control plan

- (1) The mine operator must, in preparing a mechanical engineering control plan, take the following into account in determining the means by which the mine operator will manage the risks to health and safety from the mechanical aspects of plant and structures at the mine:
 - (a) the overall life cycle of plant and structures at the mine,
 - (b) the reliability of safeguards used at the mine to protect persons from the hazards posed by the plant or structure during each phase of its life cycle,
 - (c) the mechanical engineering practices to be employed at the mine,
 - (d) the competency required by workers in order to safely work on plant or structures at the mine.
- (2) A mechanical engineering control plan must set out the control measures for the following risks to health and safety associated with the mechanical aspects of plant and structures at the mine taking into account the matters set out in subclause (3):
 - (a) injury to persons caused by the operation of plant or by working on plant or structures,
 - (b) the unintended initiation of explosions,
 - (c) the unintended operation of plant,
 - (d) the unintended release of mechanical energy,
 - (e) the catastrophic failure of plant or structures,
 - (f) uncontrolled fires being initiated or fuelled by plant,
 - (g) the exposure of persons to toxic or harmful substances.
- (3) The following matters must be taken into account when developing a control measure referred to in subclause (2):
 - (a) the acquisition and operation of any plant or structure to ensure that it is fit for its purpose,

- (b) the installation, commissioning, operation, maintenance, repair and alteration of plant or structures,
 - (c) the introduction of plant or structures into the mine,
 - (d) safe work systems for persons dealing with plant or structures including the isolation, dissipation and control of all mechanical energy sources from plant or structures,
 - (e) the inspection and testing of plant or structures including testing of any braking systems, steering systems, warning systems and other safety critical functions or components,
 - (f) the identification, assessment, management and rectification of defects that affect the safety of plant or structures,
 - (g) the risks associated with diesel engines including pollutants and, in the case of underground coal mines, the arrangements for meeting and maintaining any requirements for registration under clause 177 of this Regulation and Part 5.3 of the WHS Regulations in relation to plant with a diesel engine,
 - (h) the risks associated with plant, including face machines, winding systems, mobile plant, drilling plant and dredges,
 - (i) the risks associated with pressurised fluids,
 - (j) the risks associated with the transfer and storage of combustible liquids and other hazardous or volatile material associated with the use of plant or structures,
 - (k) the prevention, detection and suppression of fires on mobile plant and conveyors,
 - (l) the provision of operator protective devices on mobile plant including protective canopies on continuous miners when controlled by an on-board operator,
 - (m) the maintenance of explosion-protected plant in an explosion-protected state,
 - (n) undertaking hot work,
 - (o) the use of fire-resistant hydraulic fluids and materials in high risk underground applications.
- (4) The following matters must be taken into account when developing a control measure referred to in subclause (2) in respect of a belt conveyor:
- (a) the risks associated with belt conveyors,
 - (b) the protection of persons near or travelling under a belt conveyor against the risk of being struck by falling objects,
 - (c) in the case of a belt conveyor in an underground coal mine or a reclaim tunnel—Australian Standard AS 4606-2012, *Grade S fire resistant and antistatic requirements for conveyor belting and conveyor accessories*,
 - (d) risks arising from the starting of belt conveyors,
 - (e) the interaction of persons and belt conveyors including provision for the safe crossing of belt conveyors by persons.

3 Electrical engineering control plan

- (1) The mine operator must, in preparing an electrical engineering control plan, take the following into account in determining the means by which the mine operator will manage the risks to health and safety from electricity at the mine:
- (a) the overall life cycle of the electrical aspects of plant and electrical installations at the mine,

- (b) the reliability of electrical safeguards used at the mine to protect persons from electrical or other hazards,
 - (c) the electrical engineering and electrical work practices to be employed at the mine,
 - (d) the competency required by workers to safely work on electrical plant or electrical installations at the mine.
- (2) An electrical engineering control plan must set out the control measures for the following risks to health and safety associated with electricity at the mine taking into account the matters set out in subclause (3):
 - (a) injury to persons caused by direct or indirect contact with electricity,
 - (b) injury to persons caused by working on electrical plant or electrical installations,
 - (c) the unintended initiation of gas or dust explosions,
 - (d) the unintended operation of plant,
 - (e) the occurrence of uncontrolled fires.
- (3) The following matters must be taken into account when developing a control measure referred to in subclause (2):
 - (a) the location of the electrical plant and electrical installations at the mine,
 - (b) the rating and design of plant for the prospective electrical fault level, electrical load, operating frequency, operating voltages and arc fault control,
 - (c) the design and operation of any electrical plant that contains flammable liquid,
 - (d) the carrying out of the selection, installation and use of electrical cables and electrical cable accessories at the mine,
 - (e) the control of static electricity at the mine, including preventing the ignition of flammable gas,
 - (f) the impact of lightning on the mine (especially on an underground mine) including the effect on electrical systems,
 - (g) the need for reliable circuit interruption for all points in the mine's electrical distribution system when faults occur taking into account the operating time and tripping current of circuit protection devices,
 - (h) the type of earthing system used, including levels of earth fault limitation,
 - (i) the potential for persons to contact electricity indirectly,
 - (j) the prospective touch, step and transfer voltage,
 - (k) variations in operating conditions,
 - (l) preventing persons inadvertently contacting energised parts of electrical plant and electrical installations,
 - (m) the consultation, co-operation and co-ordination of activities between persons conducting businesses or undertakings at the mine (including the mine operator) and persons conducting businesses or undertakings installing, maintaining or carrying out work on an electricity supply authority's infrastructure,
 - (n) the procedures for the following:
 - (i) the use of electrical welding plant,
 - (ii) the use of electrical test instruments,
 - (iii) work near overhead power lines and cables,
 - (iv) the treatment of electric shocks and electric burns,

- (v) accessing and working on high voltage electrical installations,
- (o) signage and notices in relation to the risks arising in relation to particular electrical plant and electrical installations such as electrical switchgear,
- (p) the security and maintenance of the mine's electrical control system software and control circuits,
- (q) the use of lasers and fibre optic equipment at the mine,
- (r) the construction, installation and maintenance of battery powered vehicles and battery charging stations at the mine,
- (s) the supply of electricity in hazardous atmospheres and, in the case of underground coal mines, in hazardous zones,
- (t) the use of electrical plant in hazardous atmospheres and, in the case of underground coal mines, in hazardous zones,
- (u) safe work systems for persons dealing with electrical plant and electrical installations including the isolation, dissipation and control of all electrical energy sources from the electrical plant or electrical installation,
- (v) the use of switchgear and electrical protection devices that can automatically detect an electrical fault in a circuit and disconnect the supply of power to the circuit.

4 Explosives control plan

- (1) An explosives control plan must set out the control measures for risks to health and safety associated with explosives at the mine taking into account:
 - (a) the potential for unintended or uncontrolled detonation of explosives,
 - (b) the characteristics of relevant explosives and the purposes for which they are to be used,
 - (c) the characteristics of the places in which the explosives are to be used,
 - (d) the full set of phases for the use of relevant explosives such as the charging and firing phases,
 - (e) the potential for explosives to deteriorate,
 - (f) the potential for the theft or misuse of explosives,
 - (g) the potential for the ejection of fly rock or other material as a result of the detonation of an explosive.
- (2) An explosives control plan must also set out the following:
 - (a) the procedures for inspecting, reporting, isolating and disposing of deteriorated or damaged explosives,
 - (b) the procedures for finding, recovering and disposal of explosives that misfire,
 - (c) the inspection, testing, reporting and maintenance procedures in relation to the equipment used at the mine for manufacturing, storing, transporting and delivering explosives,
 - (d) the procedures and equipment used in storing and transporting explosives at the mine,
 - (e) the procedures used for the accounting of explosives at the mine,
 - (f) the arrangements for the keeping of a register identifying persons who are licenced under the *Explosives Act 2003* to transport, use, store or handle explosives at the mine,

- (g) the procedures for ensuring that any person transporting, using, storing or handling explosives at the mine has any licence necessary under the *Explosives Act 2003*,
 - (h) the procedures in relation to consultation and co-operation to ensure that any transportation, use, storage or handling of explosives at the mine is conducted safely and in accordance with any conditions attached to the licence under which that transportation, use, storage or handling takes place.
- (3) In this clause:
explosives includes explosive precursors.

Schedule 3 High risk activities

(Clause 33)

Part 1 All mines

1 Application of Part

This Part applies to all mines.

2 Electrical work on energised electrical equipment

- (1) Electrical work on energised electrical equipment is identified as a high risk activity (but not if the electrical work is testing whether or not the equipment is energised).
- (2) The waiting period for the activity is 7 days.
- (3) No additional information or documents are required to be provided.

Part 2 Underground mines

3 Application of Part

This Part applies to underground mines only.

4 Development of new mine entry

- (1) Development of a new mine entry (including by sinking a shaft or drift or raise boring) is identified as a high risk activity.
- (2) The waiting period for the activity is 3 months.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) details of the method of working,
 - (b) details of the plant to be used.
- (4) This clause does not apply to an opal mine.
- (5) In this clause:
mine entry does not include a borehole of 500 millimetres or less in diameter drilled to support a mining activity, such as for removing water from a mine.

5 Connected voltage becoming greater than 12,000 volts

- (1) Connecting electricity to the mine so that the total connected voltage underground is greater than 12,000 volts is identified as a high risk activity.
- (2) The waiting period for the activity is 12 months.
- (3) No additional information or documents are required to be provided.

Part 3 Underground coal mines

6 Application of Part

This Part applies to underground coal mines only.

7 Working in inrush control zone

- (1) Working in an inrush control zone is identified as a high risk activity.

- (2) The waiting period for the activity is:
 - (a) 7 days if the potential source of inrush can be inspected, or
 - (b) 3 months in any other case.
- (3) The information and document that must be provided in relation to each activity is an engineering drawing of the activity endorsed by the person nominated to exercise the statutory function of mining engineering manager at the mine.

8 Roadway or drift without intersection for 250 metres

- (1) Single entry development of a roadway or drift for more than 250 metres without an intersection is identified as a high risk activity.
- (2) The waiting period for the activity is 1 month.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) an engineering drawing of the development, endorsed by the person nominated to exercise the statutory function of mining engineering manager at the mine,
 - (b) details of the explosion suppression measures to be taken,
 - (c) details of the escape strategy to be implemented,
 - (d) details of ventilation arrangements in respect of the activity.

9 Shotfiring

- (1) Shotfiring, if shotfiring has not been undertaken within a year prior to the intended time of shotfiring, is identified as a high risk activity.
- (2) The waiting period for the activity is 7 days.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) details of the location of the proposed activity,
 - (b) details of the competency of each person carrying out the activity and, if the person has undertaken the activity at the mine before, details of any training undertaken by the person since that time,
 - (c) details of ventilation arrangements in respect of the activity.

10 Sealing

- (1) Sealing (other than emergency sealing) is identified as a high risk activity, but only if notice has not been given as part of a notice for secondary extraction.
- (2) The waiting period for the activity is 1 month.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) details of the proposed location of the seals and the areas of the mine to be sealed,
 - (b) details of the proposed sealing procedure and type of seals,
 - (c) details of any evidence of ignition sources being present in the areas to be sealed,
 - (d) predictions of the rates at which methane and other gases will accumulate in the sealed areas,

- (e) details of the gas monitoring procedures to be carried out during and after the sealing.

11 Conduct of hot work in a hazardous zone

- (1) The conduct of hot work in a hazardous zone is identified as a high risk activity.
- (2) The waiting period for the activity is 7 days.
- (3) No additional information or documents are required to be provided.

12 Driving underground roadway that is wider than 5.5 metres

- (1) Driving an underground roadway with a width greater than 5.5 metres is identified as a high risk activity.
- (2) The waiting period for the activity is 7 days.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) engineering drawings of the activity endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (b) a geotechnical report on the activity,
 - (c) details of relevant strata control in respect of the activity.

13 Widening underground roadway to more than 5.5 metres

- (1) Widening an existing underground roadway to a width greater than 5.5 metres is identified as a high risk activity.
- (2) The waiting period for the activity is 7 days.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) engineering drawings of the activity endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (b) a geotechnical report on the activity,
 - (c) details of relevant strata control in respect of the activity.

14 Use of high voltage plant and cables in a hazardous zone

- (1) Using electrical plant or cables in a hazardous zone is identified as a high risk activity if the plant or cable:
 - (a) is associated with longwall mining and has a voltage greater than 4,000 volts, or
 - (b) in any other case, has a voltage greater than 1,200 volts.
- (2) The waiting period for the activity is 12 months.
- (3) No additional information or documents are required to be provided.

15 Formation of non-conforming pillars

- (1) In this clause:
conforming pillar means a pillar, the shortest horizontal dimension of which is no less than:
 - (a) one tenth of the thickness of the cover (to the surface), or
 - (b) 10 metres, if the thickness of the cover is less than 100 metres.

- (2) The formation of a pillar other than a conforming pillar is identified as a high risk activity.
- (3) The waiting period for the activity is 7 days.
- (4) The information and documents that must be provided in relation to the activity are as follows:
 - (a) engineering drawings of the activity endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (b) a geotechnical report on the activity.

16 Secondary extraction or pillar extraction, splitting or reduction

- (1) The following are identified as high risk activities:
 - (a) secondary extraction by longwall mining, shortwall mining or miniwall mining,
 - (b) pillar extraction,
 - (c) pillar splitting,
 - (d) pillar reduction.
- (2) The waiting period for any such activity is 3 months.
- (3) The information and documents that must be provided in relation to any such activity are as follows:
 - (a) details of the authoritative sources used in determining that the proposed method of work can be done safely,
 - (b) engineering plans showing the manner and sequence of extraction, endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (c) information about the land above or in the vicinity of the proposed activity including land use and details of who owns or occupies any land that may be affected by subsidence,
 - (d) in the case of a pillar extraction, details of the procedures for the recovery of buried and immobile mining plant in or around a goaf,
 - (e) details of how the risks to the health and safety of workers and other persons from subsidence caused by the activity will be managed.

17 Shallow depth of cover mining

- (1) Mining operations in locations where the depth of cover is less than 50 metres is identified as a high risk activity.
- (2) The waiting period for the activity is 3 months.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) an engineering drawing of the activity, endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (b) survey plans certified by an individual nominated to exercise the statutory function of mining surveyor at the mine,
 - (c) a geotechnical report on the activity,
 - (d) information on how the risks to the health and safety of workers and other persons from the potential formation of sinkholes will be managed.

18 Mining in outburst control zones

- (1) In this clause:
gas means methane, carbon dioxide or a combination of methane and carbon dioxide.
outburst control zone means any area of a mine where:
 - (a) if Australian Standard AS 3980–1999, *Guide to the determination of gas content of coal—Direct desorption method* is used—the amounts in subparagraphs (i) and (ii), when added together, exceed 9 cubic metres per tonne of coal:
 - (i) the total amount of gas (measured in cubic metres per tonne of coal),
 - (ii) the percentage of that total amount of gas that is carbon dioxide, multiplied by 4 cubic metres per tonne of coal, or
 - (b) if the GeoGas Desorption Rate Index (DRI) method is used—the desorption rate index of gas exceeds 900.
- (2) Carrying out mining operations in an outburst control zone is identified as a high risk activity.
- (3) The waiting period for the activity is 3 months.
- (4) The information and documents that must be provided in relation to the activity are as follows:
 - (a) an analysis of how the risk of gas outbursts will be managed in undertaking the activity,
 - (b) an engineering drawing of the activity, endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (c) survey plans certified by an individual nominated to exercise the statutory function of mining surveyor at the mine,
 - (d) the parts of the mine’s emergency plan relevant to outbursts.

19 First applications of explosion inhibitors

- (1) The following are identified as high risk activities:
 - (a) the first application in any part of a mine of a coal dust explosion inhibitor used in combination with dry stone dust,
 - (b) the first application on any mine roadway of a coal dust explosion inhibitor other than dry stone dust.
- (2) The waiting period for any such activity is 3 months.
- (3) The information and documents that must be provided in relation to any such activity are as follows:
 - (a) the results of a physical test, other than a laboratory test, showing the inhibitor’s effectiveness at suppressing a coal dust explosion, that is carried out by a nationally accredited testing laboratory (being an individual or corporation that has accreditation by the National Association of Testing Authorities, Australia (or an equivalent body) to perform the test),
 - (b) the standards or test methods used,
 - (c) details of other control measures used to restrict propagation of a coal dust explosion,
 - (d) the method of sampling and testing of the treated dust to determine the effectiveness of the inhibitor and the need for further treatments.

20 Use of explosives designed for use in coal mines

- (1) In this clause:
coal mine explosive means an explosive or detonator that is manufactured and supplied for use in an underground coal mine.
- (2) The use of a coal mine explosive is identified as a high risk activity.
- (3) The waiting period for the activity is:
 - (a) 7 days, or
 - (b) if the regulator gives the mine operator written notice that the explosive has not been used before in the State—1 month.
- (4) The information and documents that must be provided in relation to the activity are as follows:
 - (a) details of the type of explosive to be used,
 - (b) evidence that the explosive is suitable for use in an underground coal mine including the testing regimes used to determine that suitability and the results of the tests,
 - (c) details of the manner in which the explosive is to be used,
 - (d) details of the coal dust explosion suppression methods to be used, including stone dust or other explosion inhibitors and explosion barriers,
 - (e) details of the gas regime at the mine,
 - (f) if the explosive is to be used in a manner inconsistent with the conditions for which use of the explosive is suitable—analysis of any alternative method that could be used to achieve the task.

21 Use of an explosive not designed for use in coal mines

- (1) The use of an explosive other than a coal mine explosive (within the meaning of clause 20) is identified as a high risk activity.
- (2) The waiting period for the activity is 1 month.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) details of the type of explosive to be used,
 - (b) details of the manner in which the explosive is to be used,
 - (c) details of the coal dust explosion suppression methods to be used, including stone dust or other explosion inhibitors and explosion barriers,
 - (d) details of the gas regime at the mine,
 - (e) analysis of any alternative method that could be used to achieve the task.

22 First use of a vehicle with a fire-protected diesel engine

- (1) Using a vehicle with a diesel internal combustion engine in a mine is identified as a high risk activity, but only if the engine is fire-protected and has not been used underground at the mine before.
- (2) Subclause (1) does not apply to a diesel internal combustion engine that is explosion-protected.
- (3) The waiting period for the activity is 3 months.
- (4) No additional information or documents are required to be provided.

23 First use of an explosion barrier other than a water barrier or bagged stone dust

- (1) Using an explosion barrier in a mine other than a water barrier or a explosion barrier made of bagged stone dust is identified as a high risk activity, but only if that type of explosion barrier has not been used at the mine before.
- (2) The waiting period for the activity is 3 months.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) the results of a physical test, other than a laboratory test, showing the explosion barrier's effectiveness at suppressing a coal dust explosion, that is carried out by a nationally accredited testing laboratory (being an individual or corporation that has accreditation by the National Association of Testing Authorities, Australia (or an equivalent body) to perform the test),
 - (b) the standards or test methods used in respect of the test,
 - (c) details of how other explosion suppression methods interact with the explosion barrier,
 - (d) the installation and maintenance standards for the explosion barrier.

Part 4 Coal mines other than underground coal mines

24 Application of Part

This Part applies to coal mines only, but not underground coal mines.

25 Highwall mining, entry of persons

- (1) The entry of a person into a mining excavation where mining operations (that would be classified as highwall mining if the person were not there) is taking place is identified as a high risk activity.
- (2) The waiting period for the activity is 7 days.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) details of the competency of the person appointed to control the mining operation while the person is inside the mining excavation,
 - (b) details of the competency of the person entering the mining excavation,
 - (c) details of self-rescue equipment to be carried by the person entering the mining excavation,
 - (d) details of the time period for which the person will be in the mining excavation including the time of first entry of persons in to the excavation to the time of final departure of persons from the excavation,
 - (e) confirmation that the direct supervision of any person within the mining excavation will be undertaken by an individual nominated to exercise the statutory function of deputy at the mine.

Part 5 All coal mines

26 Application of Part

This Part applies to coal mines only.

27 Emplacement areas

- (1) The establishment, operation or decommissioning of an emplacement area is identified as a high risk activity.
- (2) The waiting period for the activity is 3 months.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) an overview of the life cycle of the emplacement area, including time frames for each stage of that life cycle, the design and construction of the emplacement area, any reject at the emplacement area, the transport of reject to or from the emplacement area, the treatment of reject at the emplacement area, inspections of the emplacement area and details of any decommissioning of the emplacement area,
 - (b) details of the ongoing monitoring of the emplacement area,
 - (c) engineering drawings of the emplacement area showing all existing and proposed emplacement areas and the geotechnical design of those areas, endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (d) survey plans of the emplacement area showing all existing and proposed emplacement areas at the mine, endorsed by an individual nominated to exercise the statutory function of mining surveyor at the mine.
- (4) In this clause:
reject means the material left after the processing of extracted minerals.

28 Highwall mining

- (1) Highwall mining is identified as a high risk activity.
- (2) The waiting period for the activity is 1 month.
- (3) The information and documents that must be provided in relation to the activity are as follows:
 - (a) an engineering drawing detailing the activity and endorsed by the individual nominated to exercise the statutory function of mining engineering manager at the mine,
 - (b) a plan of the activity certified by an individual nominated to exercise the statutory function of mining surveyor at the mine,
 - (c) information on how the risks to the health and safety of workers and other persons from subsidence caused by the activity will be managed.

29 Barrier mining

- (1) In this clause:
barrier mining means extraction or drilling activities taking place:
 - (a) within 20 metres of any external boundary of the tenement, or
 - (b) within 20 metres of any adjacent mine, or
 - (c) in the case of an underground mine, within 40 metres of any outcrop of the seam.
- (2) Barrier mining is identified as a high risk activity.
- (3) The waiting period for the activity is 3 months.

- (4) The information and documents that must be provided in relation to the activity are as follows:
 - (a) details of how risks from the activity will be managed,
 - (b) survey plans certified by an individual nominated to exercise the statutory function of mining surveyor at the mine.

Schedule 4 Prohibited uses in mines

(Clause 34)

(Sch 20 model WHS Regs)

Column 1		Column 2
No	Item	Prohibited use
1	Internal combustion engine (other than a compression ignition engine)	All uses underground
2	Compressed natural gas	In an underground mine in an internal or external combustion engine
3	Hydrogen	In an underground mine in an internal or external combustion engine
4	Liquid petroleum gas	In an underground mine in an internal or external combustion engine
5	Petrol and fuel	In an underground mine in an internal or external combustion engine unless suitable for safe use underground
6	Ignition sources, such as lighters, matches and naked flames, but not ignition sources referred to in item 8	In each of the following places: <ul style="list-style-type: none"> (a) in an underground coal mine (except when used to carry out a high risk activity in accordance with this Regulation or when used to carry out hot work outside a hazardous zone in accordance with control measures developed under the mechanical engineering control plan), (b) at any mine, while carrying, handling or using any explosive or initiating system or within 8 metres of any explosive or initiating system, (c) at a work area at a mine when solvents are used, (d) at a work area at a mine where flammable vapours are present, (e) at an underground coal mine in a refuge chamber during an emergency.
7	Uncoated or unprotected light metal alloys or aluminium	In an underground coal mine: <ul style="list-style-type: none"> (a) in the hazardous zone, or (b) on the inbye side of the first cut-through outbye from a longwall face, or (c) in any rotating component or in any component subject to impacts.
8	Explosives, detonators, explosives testing equipment and exploders (excluding explosive power tools)	All uses at any mine, unless for the purpose of shotfiring

Schedule 5 Water barriers in underground coal mines

(Clause 65)

1 Obligation on mine operator

The mine operator of an underground coal mine must ensure that any water barriers in use at the mine comply with the requirements of this Schedule.

Maximum penalty:

- (a) in the case of an individual—\$6,000, or
- (b) in the case of a body corporate—\$30,000.

2 Must only use distributed or concentrated barriers

Water barriers must be distributed barriers or, if it is not reasonably practicable to use distributed barriers, concentrated barriers.

3 Trough design standards

- (1) The troughs used in water barriers must be manufactured and tested in accordance with European Standard EN 14591-2:2007, *Explosion prevention and protection in underground mines—Protective systems—Part 2: Passive water trough barriers*.
- (2) Troughs must be of a type designed to be used with rigid support.

4 Distributed barriers

(1) Location

A distributed barrier must, so far as is reasonably practicable, be located so that the most inbye row of any distributed barrier used in relation to a face is placed as follows:

- (a) within the face zone and as near as possible to the face,
- (b) no more than 100 metres outbye from the face,
- (c) if used in a roadway where a belt conveyor is installed, no more than 30 metres outbye from the belt conveyor feeder or boot-end,
- (d) no more than 30 metres outbye from any trickle duster or auxiliary fan in use in the face zone,
- (e) if no auxiliary fan is in use, no more than 30 metres outbye from the last line of cut-throughs.

(2) Spacing between rows

The maximum distance in metres from one row of a distributed barrier to the next is to be determined by dividing the number of litres of water in the row by the number of square metres of the cross sectional area of the roadway in which the barrier is located.

5 Concentrated barriers

- (1) A concentrated barrier must, so far as is reasonably practicable, be located so that the most inbye row of any concentrated barrier used in relation to a face is placed no less than 60 metres outbye from the face and no more than 200 metres outbye from the face.
- (2) Each row of a concentrated barrier in a panel must be placed as soon as is reasonably practicable as the panel develops until the barrier is completed.

6 Loadings

A water barrier must be loaded, for each square metre of the cross sectional area of the roadway in which a water barrier is placed, with:

- (a) not less than 200 litres if the barrier is located in accordance with clause 4 (1) or 5, or
- (b) not less than 400 litres in any other case.

7 Installation and other requirements

- (1) Water barriers must consist of troughs filled with water rigidly held in support frames or bearers, and the long side of troughs must form rows at right angles to the roadway direction.
- (2) Any support frame or bearer:
 - (a) must provide a minimum of shielding to the face of the trough and to the space above the trough, and
 - (b) must be supported in the roadway in such a manner that it cannot move along the roadway.
- (3) The spacing between rows of troughs must be at least 1.5 metres between centres.
- (4) The maximum distance between the rims of troughs in a particular row and between the rim of the end trough in a row and the side of the road is 1.5 metres.
- (5) The minimum distance between the outside rims of the outside troughs in a particular row is 65 per cent of the maximum roadway width.
- (6) Troughs must be placed as low as is reasonably practicable in the upper third of the roadway.
- (7) A water barrier must not be installed in a cavity in a roof.
- (8) A water barrier in a roadway with a belt conveyor must be installed so that the majority of the barrier is not lower than the top of the conveyor belt.

Schedule 6 Sampling airborne dust at coal mines

(Clause 86)

Part 1 Preliminary

1 Definitions

in this Schedule:

breathing zone, in respect of a person, means an imaginary hemisphere that extends in front of the person's face having a radius of 300 millimetres centred at the midpoint between the person's ears.

production shift, at a mine, means a shift at which extraction is carried out at the mine.

sample of inhalable dust means a sample of airborne dust taken to determine the inhalable dust component.

sample of respirable dust means a sample of airborne dust taken to determine the respirable dust component (including respirable quartz).

2 Sampling and analysis—general requirements

- (1) Samples must be taken under, and in accordance with, a licence under Part 9 of this Regulation.
- (2) Samples must be taken over a period of at least 5 hours and should, so far as is reasonably practicable, be taken from the start of a shift to the end of the shift.
- (3) Samples must be taken from as close as is reasonably practicable to places where persons work.
- (4) Samples taken in respect of a person carrying out particular work are to be taken, so far as is reasonably practicable, from a person who carries out that same work for the whole shift or sampling period.
- (5) Samples must be analysed as soon as is reasonably practicable after they are taken and if a sample was taken incorrectly it must be taken again.
- (6) Samples of respirable dust are to be taken and analysed in accordance with Australian Standard AS 2985–2009, *Workplace atmospheres—Method for sampling and gravimetric determination of respirable dust*.
- (7) Samples of inhalable dust are to be taken and analysed in accordance with Australian Standard AS 3640–2009, *Workplace atmospheres—Method for sampling and gravimetric determination of inhalable dust*.
- (8) Analysis of the level of respirable quartz in airborne dust is required only in respect of one sample taken in an area at a particular time.

Part 2 Underground coal mines—sampling

3 Longwall mining area

- (1) Samples are to be taken in each part of an underground coal mine where longwall mining is carried out, including from the breathing zone of at least 5 persons including, so far as is reasonably practicable:
 - (a) a person operating a shearer, and
 - (b) 2 persons operating powered supports, and

- (c) a person nominated to exercise the statutory function of deputy at the mine, and
 - (d) a person exposed to airborne dust.
- (2) Samples of respirable dust are to be taken at least once every 6 months.
 - (3) Samples of inhalable dust are to be taken at least once every 12 months.
 - (4) In the case of a mine at which there is more than one production shift per day, samples must be taken at the frequency specified in subclauses (2) and (3) in respect of each such shift.

4 Continuous miner operating area

- (1) Samples are to be taken in each part of an underground coal mine where a continuous miner operates, including from the breathing zone of at least 5 persons including, so far as is reasonably practicable:
 - (a) a person driving a continuous miner, and
 - (b) a person who is working as a sideman or cable handler, and
 - (c) a person who is working as a shuttle car driver, and
 - (d) a person nominated to exercise the statutory function of deputy at the mine, and
 - (e) a person who is working as a boot end attendant or a person exposed to airborne dust.
- (2) Samples of respirable dust are to be taken at least once every 12 months.
- (3) In the case of a mine at which there is more than one production shift per day, samples must be taken at the frequency specified in subclause (2) in respect of each such shift.
- (4) Samples of inhalable dust are to be taken at least once every 12 months.

5 Area where cement products being applied

- (1) Samples are to be taken in each part of an underground coal mine where cement products are being applied, including from the breathing zone of at least 2 persons including, so far as is reasonably practicable:
 - (a) a person loading cement into a mixer, and
 - (b) a person spraying or applying cement products.
- (2) Samples of inhalable dust are to be taken at least once every 12 months.
- (3) No samples of respirable dust are required to be taken.

6 Other areas

- (1) Samples are to be taken in each part of an underground coal mine (other than a part referred to elsewhere in this Part), including from the breathing zone of at least 1 person.
- (2) Samples of respirable dust and samples of inhalable dust are to be taken at least once every 12 months.

Part 3 Other coal mines—sampling

7 Other areas

- (1) Samples are to be taken in each part of a coal mine (other than an underground coal mine) where dust is, or may be, present, including from the breathing zone of at least 5 persons.
- (2) In the case of samples taken where extraction is occurring, the persons referred to in subclause (1) are to include, so far as is reasonably practicable:
 - (a) at least one person who is working as a drill operator, shotfirer or stemmer, and
 - (b) at least one person who is operating mobile plant.
- (3) Samples of respirable dust and samples of inhalable dust are to be taken at least once every 12 months.

Schedule 7 Matters to be included in emergency plan for a mine

(Clause 88)

(Sch 22 model WHS Regs)

1 Site and hazard detail

- (1) The location of the mine, including its street address and the nearest intersection (if any).
Note. Sufficient detail must be provided to enable a person not familiar with the site to find it.
- (2) The current mine survey plan or mine plan required under Part 5.
- (3) A brief description of the nature of the mine and mining operations.
- (4) The maximum number of persons, including workers, likely to be present at the mine on a normal working day.
- (5) The emergency response control planning assumptions for different emergencies, and likely areas affected.
- (6) The protective resources available to control an incident that could result in an emergency.
- (7) The emergency response procedures, including procedures for isolating areas of the mine in an emergency.
- (8) The infrastructure likely to be affected by an emergency.

2 Command structure and site personnel

- (1) The command philosophy and structure to be activated in an emergency, so that it is clear what actions will be taken, who will take these actions and how, when and where they will be taken.
- (2) Details of the person who can clarify the content of the emergency response control plan if necessary.
- (3) The contact details of, and the way to contact, the persons at the mine responsible for liaising with emergency services.
- (4) A list of 24 hour emergency contacts.
- (5) Arrangements for assisting emergency services.

3 Notifications

- (1) In the event of the occurrence of a notifiable incident or an event that could reasonably be expected to lead to a notifiable incident, procedures for notifying:
 - (a) any person whose health or safety may be affected, even if:
 - (i) the person is located underground, or
 - (ii) there is no electrical power that can be used for the notification, and
 - (b) the emergency services in circumstances where emergency services are required.
- (2) On-site and off-site warning systems.
- (3) Contact details for emergency services and other support services that can assist in providing resources and implementing evacuation plans in an emergency.
- (4) On-site communication systems.

4 Resources and equipment

- (1) On-site emergency resources, including:
 - (a) first aid equipment, facilities, services and personnel, and
 - (b) emergency equipment and personnel, including adequate and compatible fire fighting equipment such as foam generators, and
 - (c) gas detectors, wind velocity detectors, sand, lime, neutralising agents, absorbents, spill bins and decontamination equipment, where applicable.
- (2) Off-site emergency resources, including arrangements for obtaining additional external resources (specific to the likely incidents), including mines rescue services, as necessary.
- (3) Arrangements for mines rescue that state the following:
 - (a) the minimum mines rescue training to be provided,
 - (b) any arrangements for the mine operator and mine operators of mines in the vicinity to assist each other in an emergency,
 - (c) how inertisation equipment is to be used,
 - (d) the procedures to be followed in carrying out mines rescue.
- (4) For an underground mine, a means of communication between the surface of the mine and any underground area of the mine where persons are located, that is effective, so far as is reasonably practicable, even if there is no electrical connection between the surface and the relevant underground area.

5 Procedures

- (1) Procedures for the safe evacuation of, and accounting for, all persons at the mine.
- (2) Procedures and control points for utilities, including gas, water and electricity.
- (3) Procedures in the event of the ventilation system failing in all or part of the mine for more than 30 minutes.
- (4) Procedures for fighting fires at the mine and details of the persons having the competency to fight fires and to train others in fire fighting.
- (5) Procedures for emergency sealing of an underground coal mine from a safe place (including from a place out of the direct line of any potential blast).
- (6) Procedures for safely inserting inertisation equipment.

Schedule 8 Information to be included in notification of mining incident

(Clause 128)

(Sch 23 model WHS Regs)

1 Person injured

- (1) The name, date of birth and gender of any person who has suffered an illness or injury as a result of the incident.
- (2) If a person who has suffered an illness or injury as a result of the incident is a worker, the following information:
 - (a) the worker's occupation,
 - (b) the worker's usual start and finish time, and start time on the day of the incident,
 - (c) the number of hours worked immediately before the incident,
 - (d) the name of the person conducting the business or undertaking in which the person works,
 - (e) the nature of the engagement of the worker.
- (3) If the worker is self-employed, the name of the business or undertaking.
- (4) The industry in which the business or undertaking is primarily conducted.

2 Incident

- (1) When the incident occurred, including:
 - (a) the date of the incident, and
 - (b) the time of the incident, and
 - (c) in the case of an illness, the date on which the illness was first reported by or on behalf of the person suffering the illness.
- (2) A description of the incident, including:
 - (a) what each affected person was doing just before the incident, and
 - (b) a description of all substances, including hazardous chemicals, and all plant and processes involved in the incident, and
 - (c) the classification of:
 - (i) the mechanism of the incident, and
 - (ii) the agency of the illness or injury (that is, how the incident caused the illness or injury), and
 - (iii) the nature and bodily location of the illness or injury.
- (3) In this clause:
classification means the code assigned by the *Type of Occurrence Classification System* originally published by the Australian Safety and Compensation Council, as in force from time to time.

3 Consequences of incident

- (1) Whether or not the incident has resulted in any of the following:
 - (a) a fatality,
 - (b) permanent incapacity,

- (c) the inability of a worker to work for 1 day or more, not including the incident day, whether the worker is rostered on that day or not,
 - (d) the worker carrying out restricted work,
 - (e) medical treatment.
- (2) An indication of whether the incident is likely to result in any of the circumstances referred to in subclause (1).
- (3) An indication of whether the incident has the potential to result in any of the circumstances referred to in subclause (1).

Schedule 9 Information to be included in mine quarterly report

(Clause 130)

(Sch 24 model WHS Regs)

1 Meaning of incident

In this Schedule:

incident means:

- (a) a notifiable incident, or
- (b) an incident referred to in clause 128.

2 Mine holder

The name of the mine holder for the mine.

3 Mine operator

The name of the mine operator of the mine.

4 The mine

The location of the mine.

5 Commodity processed

A description of the primary commodity processed at the mine site during the reporting period.

6 Number of workers

The average number of workers who worked at the mine site during the reporting period.

7 Number of hours worked

The total number of hours (including additional shifts and overtime) worked at the mine during the reporting period.

8 Number of incidents

The total number of incidents occurring during the reporting period.

9 Number of lost time injuries and illnesses

The total number of injuries and illnesses of workers during the reporting period that resulted in the inability of a worker to work for 1 day or more (not including the day on which the injury was sustained or the illness first became apparent).

10 Days lost from work

The total number of days (not including the day on which the injury was sustained or the illness first became apparent) lost from work by workers during the reporting period as a result of injuries or illnesses.

11 Number of restricted duty days

The total number of days on which workers carried out restricted duties during the reporting period as a result of injuries or illnesses (not including the day on which the injury was sustained or the illness first became apparent).

12 Number of restricted duties injuries and illnesses

The total number of injuries and illnesses of workers during the reporting period that resulted in a worker being placed on restricted duties (not including the day on which the injury was sustained or the illness first became apparent), but not injuries or illnesses already included under clause 9.

13 Number of medical treatment injuries

- (1) The total number of injuries and illnesses of workers during the reporting period that resulted in a worker requiring medical treatment, but not injuries or illnesses already included under clause 9 or 12.
- (2) In this clause, *medical treatment* means the management or care of a patient including:
 - (a) the suturing of a wound,
 - (b) the treatment of fractures,
 - (c) the treatment of bruises by drainage of blood,
 - (d) the treatment of second and third degree burns,but does not include diagnostic procedures, observation, counselling, first aid or therapeutic measures taken solely for preventative purposes.

14 Number of deaths

The total number of deaths that occurred during the reporting period as a result of incidents.

15 Other information

The information set out in Schedule 8 in relation to each incident, if that information has not already been provided to the regulator.

Schedule 10 Statutory functions

(Clause 136)

Part 1 Application of Schedule

1 Mines to which Schedule does not apply

This Schedule does not apply to the following:

- (a) tourist mines,
- (b) mines at which no mining activity takes place other than exploring for minerals,
- (c) opal mines.

Part 2 Underground coal mines

2 Application of Part

This Part applies to underground coal mines only.

3 Mining engineering manager

- (1) The statutory function of mining engineering manager is to develop, supervise, monitor and review the mining engineering standards and procedures forming part of mining operations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

4 Electrical engineering manager

- (1) The statutory functions of electrical engineering manager are:
 - (a) to develop, supervise, monitor and review the electrical engineering standards and procedures forming part of mining operations at the mine, and
 - (b) to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory functions is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory functions.

5 Mechanical engineering manager

- (1) The statutory functions of mechanical engineering manager are:
 - (a) to develop, supervise, monitor and review the mechanical engineering standards and procedures forming part of mining operations at the mine, and
 - (b) to supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.
- (2) The requirement for nomination to exercise the statutory functions is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory functions.

6 Undermanager

- (1) The statutory function of undermanager is to supervise the mining operations at the mine for a shift during which:
 - (a) there are more than 15 persons underground, or
 - (b) secondary extraction is occurring at the mine, or
 - (c) major changes are being made to the ventilation system for the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

7 Ventilation auditor

- (1) The statutory function of ventilation auditor is to audit the ventilation system and ventilation control plan for the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

8 Ventilation officer

- (1) The statutory function of ventilation officer is to control and manage the ventilation activities and standards forming a part of the mining operations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

9 Dust explosion control measures auditor

- (1) The statutory function of dust explosion control measures auditor is to audit the dust explosion control measures and standards used at the mine and report the results of those audits to the mine operator.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

10 Deputy

- (1) The statutory function of deputy is to supervise workers and inspect work areas in a part of the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

11 Mining surveyor

- (1) The statutory function of mine surveyor is to prepare and certify the mine survey plan.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must be a registered mining surveyor within the meaning of the *Surveying and Spatial Information Act 2002*.

12 Fire officer

- (1) The statutory function of fire officer is to inspect and maintain fire fighting equipment at the mine.

- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must have demonstrated competency in the Nationally Recognised Training unit *RIIERR201D Conduct fire team operations* (or any Nationally Recognised Training unit that supersedes and is equivalent to that unit).

13 Roadway dust sampler

- (1) The statutory function of roadway dust sampler is to take roadway dust samples at the mine and ascertain the level of incombustible material in those samples.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must have completed a course on the sampling and testing of roadway dust conducted by the Department of Trade and Investment, Regional Infrastructure and Services.

14 Qualified electrical tradesperson

- (1) The statutory function of qualified electrical tradesperson is to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must:
 - (a) have a supervisor certificate that authorises the doing of electrical wiring work, or
 - (b) have a proficiency certificate (issued by State Training Services) in an electrical trade, or
 - (c) have been continuously employed as an electrical tradesperson at a coal mine since 21 December 2004.

15 Qualified mechanical tradesperson

- (1) The statutory function of qualified mechanical tradesperson is to supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must have a Certificate III in Engineering—Mechanical Trade or an equivalent qualification.

Part 3 Coal mines other than underground mines

16 Application of Part

This Part applies to coal mines only, but not underground coal mines.

17 Mining engineering manager (only required if extraction occurs at the mine)

- (1) The statutory function of mining engineering manager is to develop, supervise, monitor and review the mining engineering standards and procedures forming part of mining operations at the mine (but only insofar as those standards and procedures relate to extraction).
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.
- (3) This clause does not apply to a coal mine at which no extraction occurs.

18 Open cut examiner (only required if extraction occurs at the mine)

- (1) The statutory function of open cut examiner is to supervise workers and inspect work areas in a part of the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.
- (3) This clause does not apply to a coal mine at which no extraction occurs.

19 Mining surveyor

- (1) The statutory function of mine surveyor is to prepare and certify the mine survey plan.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must be a registered mining surveyor within the meaning of the *Surveying and Spatial Information Act 2002*.

20 Electrical engineer

- (1) The statutory functions of electrical engineer are:
 - (a) to develop and review the standards and procedures for the installation, commissioning, maintenance and repair of electrical plant and installations at the mine, and
 - (b) to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory functions is that the individual nominated must:
 - (a) hold an electrical engineer certificate of competence (surface coal) or electrical engineering manager certificate of competence (coal) that is in force, or
 - (b) have evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be:
 - (i) a professional electrical engineer who is registered on the National Professional Engineers Register, or
 - (ii) an electrical engineering technologist who is registered on the National Engineering Technologists Register, or
 - (iii) an electrical engineering associate who is registered on the National Engineering Associates Register.

21 Mechanical engineer

- (1) The statutory functions of mechanical engineer are:
 - (a) to develop and review the standards, mechanical engineering practice and procedures for the life cycle of mechanical plant and installations at the mine, and
 - (b) to supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.
- (2) The requirement for nomination to exercise the statutory functions is that the individual nominated must:
 - (a) hold a mechanical engineer certificate of competence (surface coal) or mechanical engineering manager certificate of competence (coal) that is in force, or

- (b) have evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be:
 - (i) a professional mechanical engineer who is registered on the National Professional Engineers Register, or
 - (ii) a mechanical engineering technologist who is registered on the National Engineering Technologists Register, or
 - (iii) a mechanical engineering associate who is registered on the National Engineering Associates Register.

22 Qualified electrical tradesperson

- (1) The statutory function of qualified electrical tradesperson is to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must:
 - (a) have a supervisor certificate that authorises the doing of electrical wiring work, or
 - (b) have a proficiency certificate (issued by State Training Services) in an electrical trade, or
 - (c) have been continuously employed as an electrical tradesperson at a coal mine since 21 December 2004.

23 Qualified mechanical tradesperson

- (1) The statutory function of qualified mechanical tradesperson is to supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must have a Certificate III in Engineering—Mechanical Trade or an equivalent qualification.

Part 4 Underground mines other than coal mines

24 Application of Part

This Part applies to underground mines only, but not underground coal mines.

25 Mining engineering manager

- (1) The statutory function of mining engineering manager is to develop, supervise, monitor and review the mining engineering standards and procedures forming part of mining operations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

26 Underground mine supervisor

- (1) The statutory function of underground mine supervisor is to supervise mining operations at the mine for a shift during which production is taking place.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

27 Mining surveyor (only required if mine survey plan required)

- (1) The statutory function of mine surveyor is to prepare and certify the mine survey plan.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must be a registered mining surveyor within the meaning of the *Surveying and Spatial Information Act 2002*.

28 Electrical engineer (only required if total connected power at mine is greater than 1,000 kilowatts or if high voltage is utilised)

- (1) The statutory functions of electrical engineer are:
 - (a) to develop and review the standards and procedures for the installation, commissioning, maintenance and repair of electrical plant and installations at the mine, and
 - (b) to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory functions is that the individual nominated must:
 - (a) hold an electrical engineering manager certificate of competence (coal) or electrical engineering manager certificate of competence (surface coal) that is in force, or
 - (b) have evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be:
 - (i) a professional electrical engineer who is registered on the National Professional Engineers Register, or
 - (ii) an electrical engineering technologist who is registered on the National Engineering Technologists Register, or
 - (iii) an electrical engineering associate who is registered on the National Engineering Associates Register.
- (3) This clause does not apply to a mine at which the total connected power to the mine is 1,000 kilowatts or less unless voltages greater than 1,000 volts AC or 1,500 volts DC are used at the mine.

29 Qualified electrical tradesperson

- (1) The statutory function of qualified electrical tradesperson is to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must:
 - (a) have a supervisor certificate that authorises the doing of electrical wiring work, or
 - (b) have a proficiency certificate (issued by State Training Services) in an electrical trade, or
 - (c) have been continuously employed as an electrical tradesperson at a mine since 20 December 2005.

Part 5 Mines other than underground mines or coal mines

30 Application of Part

This Part applies to all mines, but not underground mines or coal mines.

31 Quarry manager

- (1) The statutory function of quarry manager is to supervise mining operations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold a current practising certificate that authorises the exercise of the statutory function.

32 Mining surveyor (only required if mine survey plan required)

- (1) The statutory function of mine surveyor is to prepare and certify the mine survey plan.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must be a registered mining surveyor within the meaning of the *Surveying and Spatial Information Act 2002*.
- (3) This clause does not apply to a mine for which a mine survey plan is not required under Part 5 of this Regulation.

33 Electrical engineer (only required if total connected power at mine is greater than 1,000 kilowatts or high voltage is utilised)

- (1) The statutory functions of electrical engineer are:
 - (a) to develop and review the standards and procedures for the installation, commissioning, maintenance and repair of electrical plant and installations at the mine, and
 - (b) to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory functions is that the individual nominated must:
 - (a) hold an electrical engineering manager certificate of competence (coal) or an electrical engineering manager certificate of competence (surface coal) that is in force, or
 - (b) have evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be:
 - (i) a professional electrical engineer who is registered on the National Professional Engineers Register, or
 - (ii) an electrical engineering technologist who is registered on the National Engineering Technologists Register, or
 - (iii) an electrical engineering associate who is registered on the National Engineering Associates Register.
- (3) This clause does not apply to a mine at which the total connected power to the mine is 1,000 kilowatts or less unless voltages greater than 1,000 volts AC or 1,500 volts DC are used at the mine.

34 Qualified electrical tradesperson

- (1) The statutory function of qualified electrical tradesperson is to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must:
 - (a) have a supervisor certificate that authorises the doing of electrical wiring work, or

- (b) have a proficiency certificate (issued by State Training Services) in an electrical trade, or
- (c) have been continuously employed as an electrical tradesperson at a mine since 20 December 2005.

Schedule 11 Membership of Mine Safety Advisory Council

(Part 10)

1 Definition

In this Schedule:

member means a member of the Council.

2 Terms of office of members

Subject to this Regulation, 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 reappointment.

3 Deputies of members

- (1) A member (other than the Chairperson or Deputy Chairperson) may, from time to time, appoint a person to be the deputy of the member, and the member or the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a deputy has all the functions of the member and is taken to be a member.
- (4) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

4 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 Council 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.
- (2) The Minister may at any time remove a member from office.
- (3) If a member is convicted in New South Wales of an offence, or is convicted elsewhere than in New South Wales of an offence, that person must disclose the conviction to the Minister:
 - (a) if the conviction occurs before the member is appointed to hold office—at the time the member is appointed to the relevant office, or
 - (b) if the conviction occurs after the member is appointed to hold office—as soon as is reasonably practicable after the conviction.
- (4) If a member discloses a conviction as referred to in subclause (3), the Minister may declare the office of that member vacant.

5 Filling of vacancy in office of member

If the office of any member becomes vacant, a person is, subject to this Regulation, to be appointed to fill the vacancy.

6 Deputy Chairperson

- (1) The Minister may, from time to time, appoint a member of the Council to be the Deputy Chairperson of the Council, and may at any time revoke any such appointment.
- (2) In the absence of the Chairperson, the Deputy Chairperson may, if available, act in the place of the Chairperson.
- (3) While acting in the place of the Chairperson, the Deputy Chairperson has all the functions of the Chairperson and is taken to be the Chairperson.
- (4) The Deputy Chairperson vacates office as Deputy Chairperson if the person:
 - (a) is removed from office by the Minister under this clause, or
 - (b) ceases to be a member.

Schedule 12 Savings and transitional provisions

Part 1 Preliminary

1 Definitions

- (1) In this Schedule:
- CMHS Act* means the *Coal Mine Health and Safety Act 2002*.
 - CMHS Regs* means the *Coal Mine Health and Safety Regulation 2006*.
 - MHS Act* means the *Mine Health and Safety Act 2004*.
 - MHS Regs* means the *Mine Health and Safety Regulation 2007*.
- (2) A reference in this Schedule to compliance with provisions of the CMHS Act or the MHS Act includes a reference to compliance with any provision of the CMHS Regs or MHS Regs made under those provisions.

Part 2 Alternative compliance

Division 1 Interpretation

2 References in CMHS Regs and MHS Regs

In this Part:

- (a) a reference to a provision of the CMHS Regs or the MHS Regs is a reference to that provision as in force immediately before the repeal of that provision, and
- (b) a reference in any such provision to the OH&S legislation is taken to be a reference to the WHS laws, and
- (c) a reference in any such provision to the operator is taken to include a reference to the mine operator, and
- (d) a reference in a provision of the CMHS Regs to a coal operation is taken to include a reference to a coal mine.

Division 2 All mines

3 Safety management system (including other plans)

- (1) This clause applies to the following provisions of Part 2 of this Regulation:
- (a) Subdivision 2 of Division 1,
 - (b) Divisions 2 and 3,
 - (c) clause 62,
 - (d) Subdivision 1 of Division 6.
- (2) The mine operator of a mine is not required to comply with the provisions to which this clause applies for a period of 2 years after the commencement of this Regulation if the mine operator instead complies with the following during that period:
- (a) Subdivisions 1 (Health and safety management systems), 2 (Major hazard management plans), 4 (Duties regarding contractors) and 5 (Emergency management systems) of Division 2 of Part 5 of the CMHS Act—in the case of a mine operator of a coal mine (other than a coal exploration site),
 - (b) section 78 (Duty to give notice of drilling operations) of the CMHS Act and clause 63 of the CMHS Regs—in the case of a mine operator of a coal

- exploration site at which mining operations commence before the commencement of clause 129 of this Regulation,
- (c) clause 129 of this Regulation as if clause 129 (4) included a requirement to notify the regulator about any precautions to be put in place in relation to the mining operations that are to commence—in the case of a mine operator of a coal exploration site at which mining operations commence after the commencement of clause 129 of this Regulation,
 - (d) Subdivisions 2 (Mine safety management plans), 4 (Duties regarding contractors) and 5 (Emergency management) of Division 2 of Part 5 of the MHS Act and Part 4 (OH&S risk assessments relating to prescribed hazards) and clause 48 of the MHS Regs—in the case of a mine operator of any other mine.
- (3) The following is taken to be the safety management system for a mine during the period referred to in subclause (2):
- (a) the health and safety management system referred to in the provisions in subclause (2) (a)—in the case of a coal mine (other than a coal exploration site),
 - (b) the notice of drilling operations referred to in the provisions in subclause (2) (b)—in the case of a coal exploration site at which mining operations commence before the commencement of clause 129 of this Regulation,
 - (c) a notice given to the regulator under clause 129 of this Regulation (as taken to be modified by subclause (2) (c))—in the case of a coal exploration site at which mining operations commence after the commencement of clause 129 of this Regulation,
 - (d) the mine safety management plan referred to in the provisions in subclause (2) (d)—in the case of any other mine.
- (4) A mine operator of a mine who complies with the provisions referred to in subclause (2) (a)–(d) rather than the provisions to which this clause applies and who considers, within the period of 2 years following the commencement of this Regulation, a new control measure in relation to a principal mining hazard at the mine, must keep a record (as part of the mine record for the mine) setting out the reasons for adopting or rejecting the control measure.
- (5) If a mine operator of a mine complies with the provisions referred to in subclause (2) (a)–(d) rather than the provisions to which this clause applies, the requirement in clause 17 of this Regulation that the safety management system for the mine be reviewed within 12 months of the commencement of mining operations at the mine is taken instead to be a requirement that the safety management system for the mine be reviewed within 5 years after the day on which this Regulation commences.
- (6) In this clause:
- coal exploration site*** means a mine that would be a coal exploration site within the meaning of the CMHS Act if that Act had not been repealed.

4 Contractor plan

A contractor is not required to comply with clause 22 of this Regulation for a period of 9 months after the commencement of this Regulation if the contractor instead complies with the following during that period:

- (a) Division 6 (Duties of contractors) of Part 5 of the CMHS Act in the case of a contractor at a coal mine,

- (b) Division 6 (Duties of and in relation to contractors) of Part 5 of the MHS Act in the case of a contractor at any other mine.

5 Mine survey plans and mine plans

The mine operator of a mine is not required to comply with Part 5 of this Regulation for a period of 9 months after the commencement of this Regulation if the mine operator instead complies with the following during that period:

- (a) Division 6 (Surveys and certified plans) of Part 4 of the CMHS Regs in the case of a mine operator of a coal mine,
- (b) Divisions 1 (Obligation to prepare and retain mine plan) and 2 (Additional arrangements in relation to mine plans for certain mines) of Part 7 of the MHS Regs in the case of a mine operator of a mine (other than a coal mine) at which not less than 20 persons work,
- (c) Division 1 (Obligation to prepare and retain mine plan) of Part 7 of the MHS Regs in the case of a mine operator of a mine (other than a coal mine) at which less than 20 persons work.

Division 3 Underground coal mines

6 Coal dust explosion

A mine operator of an underground coal mine is not required to comply with clause 65 (1) (c) of this Regulation for a period of 9 months after the commencement of this Regulation if the mine operator instead complies with clause 91 of the CMHS Regs during that period.

Division 4 Mines other than coal mines

7 Application

This Division applies to mines other than coal mines.

8 Ventilation system—further requirements

A mine operator of a mine other than a coal mine is not required to comply with clause 59 (3) of this Regulation for a period of 2 years after the commencement of this Regulation if the mine operator instead complies with clause 48 of the MHS Regs during that period.

9 Information, training and instruction

A mine operator of a mine other than a coal mine is not required to comply with Division 7 (Information, training and instruction) of Part 2 of this Regulation for a period of 9 months after the commencement of this Regulation if the mine operator instead complies with sections 26, 32 and 40 (1) (e) of the MHS Act during that period.

10 Other provisions

A mine operator of a mine other than a coal mine is not required to comply with any provision of this Regulation listed in the first column of the table to this clause for a period of 9 months after the commencement of this Regulation if the mine operator

during that period instead complies with the provision of the MHS Regs shown in the second column of the table.

Provision of this Regulation	Provision of MHS Regs
Clause 27 (Communication between outgoing and incoming shifts)	Clause 14 (f) (i)
Clause 28 (Movement of mobile plant)	Clauses 14 (b) and 43
Clause 29 (Operation of belt conveyors)	Clause 39
Clause 31 (Explosives and explosive precursors)	Clauses 41 and 54–57
Clause 32 (Electrical safety)	Clauses 42 and 58–68
Clause 35 (Closure, suspension or abandonment of mine)	Clause 79
Clause 36 (Minimum age to work in mine)	Clauses 84 and 85
Clause 37 (Inspections)	Clause 14 (c)
Subdivision 2 (Air quality and monitoring) of Division 4 of Part 2	Clause 48
Clauses 45 (Inrush hazards) and 46 (Connecting workings)	Clauses 37 and 47
Clauses 47 (Winding systems), 48 (Ropes) and 49 (Operation of shaft conveyances)	Clauses 38 and 50–52
Clause 50 (Dust explosion)	Clauses 40 (a) and 42 (c)
Clause 51 (Communication systems)	Clause 14 (f) (iv)
Clause 52 (Ground and strata support)	Clauses 36 and 46
Subdivision 2 (All underground mines—air quality and ventilation) of Division 5 of Part 2 (other than clause 59 (3))	Clauses 48 and 49
Subdivision 2 (Underground mines) of Division 6 of Part 2	Clauses 14 (f) (iv) and 32–34

Part 3 High risk activities

11 Certain provisions take effect after commencement of Regulation

- (1) Clause 4 (Development of new mine entry) of Schedule 3 does not apply to a mine other than a coal mine until 9 months after the commencement of this Regulation.
- (2) Clauses 17 (Shallow depth of cover mining) and 18 (Mining in outburst control zones) of Schedule 3 do not apply to an underground coal mine until 9 months after the commencement of this Regulation.

Note. The relevant activities will still need to comply with other provisions of the WHS laws, including matters such as complying with prohibition notices that have been saved by operation of this Schedule.

- (3) Clause 28 (3) (c) of Schedule 3 does not have effect until 9 months after the commencement of this Regulation.

12 Electrical work on energised electrical equipment

- (1) This clause applies to a high risk activity in respect of which a notice has been duly given to an inspector under clause 54 of Schedule 18B to the WHS Regulations.

- (2) Clause 33 (Notification of high risk activities) of this Regulation and clause 2 (Electrical work on energised electrical equipment) of Schedule 3 apply in respect of an activity to which this clause applies, subject to the following:
 - (a) the giving of the notice is taken to satisfy the requirement to give notice to the regulator and, in the case of a coal mine, an industry safety and health representative,
 - (b) the waiting period for the activity is taken to have commenced from the giving of the notice,
 - (c) the manner of carrying out the activity is the manner specified in the notice.

13 Notices given under section 54 of the CMHS Act

- (1) This clause applies to a high risk activity in respect of which a notice has been duly given to the Chief Inspector and an industry check inspector under section 54 of the CMHS Act before the repeal of that section.
- (2) Clause 33 (Notification of high risk activities) of this Regulation applies in respect of an activity to which this clause applies, subject to the following:
 - (a) the giving of the notice is taken to satisfy the requirements to give notice to the regulator and an industry safety and health representative,
 - (b) the waiting period for the activity is taken to have commenced when the notice was duly given to the Chief Inspector and an industry check inspector,
 - (c) the waiting period is the period specified in clause 49 of the CMHS Regs in relation to the activity (immediately before the repeal of that clause) subject to any waiver or reduction of that period under clause 33 (6) of this Regulation or any extension of that period under clause 33 (7) of this Regulation,
 - (d) the manner of carrying out the activity is:
 - (i) the manner specified in the notice, and
 - (ii) if an exemption was granted under clause 201 of the CMHS Regs in order to permit the activity to take place, in a manner that complies with any conditions to which that exemption was subject.

14 Approvals under clause 88 of the CMHS Regs

- (1) This clause applies to a high risk activity if an approval has been sought in respect of the activity under clause 88 of the CMHS Regs before the repeal of that clause.
- (2) Clause 33 (Notification of high risk activities) of this Regulation applies in respect of an activity to which this clause applies, subject to the following:
 - (a) the making of the application under clause 88 of the CMHS Regs is taken to satisfy the requirement to give notice to the regulator and an industry safety and health representative,
 - (b) the waiting period for the activity:
 - (i) is taken to have elapsed if approval was granted before the repeal of clause 88 of the CMHS Regs, or
 - (ii) is taken to have commenced on the commencement of this Regulation in any other case,
 - (c) the manner of carrying out the activity is the manner specified in the application for the approval, subject to any conditions to which the approval may be subject.

15 Approvals under section 100 of the CMHS Act

- (1) This clause applies to the high risk activity of establishing an emplacement area if an approval has been sought in respect of the activity under section 100 of the CMHS Act before the repeal of that section.
- (2) Clause 33 (Notification of high risk activities) of this Regulation applies in respect of an activity to which this clause applies, subject to the following:
 - (a) the making of the application under section 100 of the CMHS Act is taken to satisfy the requirement to give notice to the regulator and an industry safety and health representative,
 - (b) the waiting period for the activity:
 - (i) is taken to have elapsed if approval was granted before the repeal of section 100 of the CMHS Act, or
 - (ii) is taken to have commenced on the commencement of this Regulation in any other case,
 - (c) the manner of carrying out the activity is the manner specified in the application for the approval, subject to any conditions to which the approval may be subject.

16 Approvals under section 101 of the CMHS Act

- (1) This clause applies to the high risk activity of decommissioning an emplacement area if an approval of the Minister has been sought in respect of the activity under section 101 of the CMHS Act before the repeal of that section.
- (2) Clause 33 (Notification of high risk activities) of this Regulation applies in respect of an activity to which this clause applies, subject to the following:
 - (a) the making of the application to the Minister under section 101 of the CMHS Act is taken to satisfy the requirement to give notice to the regulator and an industry safety and health representative,
 - (b) the waiting period for the activity:
 - (i) is taken to have elapsed if approval was granted by the Minister before the repeal of section 101 of the CMHS Act, or
 - (ii) is taken to have commenced on the commencement of this Regulation in any other case,
 - (c) the manner of carrying out the activity is the manner specified in the application for the approval of the Minister, subject to any conditions to which the approval may be subject.

17 High risk activities that have commenced

- (1) Clause 33 (Notification of high risk activities) of this Regulation does not apply to any of the following activities in a coal mine if the activity commenced before the commencement of this Regulation:
 - (a) the establishment or operation of an emplacement area that was established before 26 March 1984 at a coal mine but only if the mine operator complies with section 102 of the CMHS Act as in force immediately before the repeal of that section and as if a reference in that section to the occupier included a reference to the mine operator and a reference to the Chief Inspector included a reference to the regulator,
 - (b) the decommissioning of an emplacement area:
 - (i) that has been approved by the Minister under section 101 of the CMHS Act before the repeal of that section, and

- (ii) that occurs within the time limit (if any) specified in that approval, and
 - (iii) that complies with all the conditions (if any) set out in that approval,
 - (c) hot work (other than cutting or welding) in a hazardous zone, but only if:
 - (i) the plant used to carry out the hot work is of a type specified in the notice under clause 19 (1) (c) of the CMHS Regs and published in Gazette No 10 of 25 January 2008, page 181, and
 - (ii) the hot work is carried out in compliance with any requirements in relation to the use of the plant set out in that notice, and
 - (iii) if an exemption was granted under clause 201 of the CMHS Regs in order to permit the activity to take place, the hot work is carried out in compliance with any conditions to which that exemption was subject,
 - (d) the use, in a hazardous zone, of electrical plant and cables having a voltage greater than 1,200 volts or (if associated with longwall mining) having a voltage greater than 4,000 volts, but only if:
 - (i) the plant or cable is of a type specified in the notice under clause 19 (1) (c) of the CMHS Regs published in Gazette No 10 of 25 January 2008, page 181, and
 - (ii) any requirements in relation to the use of the plant or cable set out in that notice have been complied with, and
 - (iii) the activity is carried out in the manner set out in the information given to the Chief Inspector under that notice,
 - (e) the use of an explosive that is manufactured and supplied for use in an underground coal mine, but only if the explosive is a permitted explosive within the meaning of the notice under clause 37 (a) (ii) of the CMHS Regs published in Gazette No 10 of 25 January 2008, page 182,
 - (f) barrier mining (within the meaning of clause 29 (Barrier mining) of Schedule 3), but only if carried out in accordance with Division 1 of Part 6 of the CMHS Act as in force immediately before the repeal of that Division.
- (2) Subclause (1) (e) ceases to have effect 9 months after the commencement of this Regulation.

18 First use of a vehicle with a fire-protected diesel engine in underground coal mine

Clause 22 (First use of a vehicle with a fire-protected diesel engine) of Schedule 3 does not apply to the first use of a vehicle with a diesel internal combustion engine that is fire-protected but not explosion-protected in an underground coal mine if:

- (a) a notice was duly given to the Chief Inspector and an industry check inspector under section 54 of the CMHS Act before the repeal of that section in relation to the introduction for the first time of the vehicle into the mine, and
- (b) the notice was given at least 3 months before the use of the vehicle in the mine.

Part 4 Statutory functions and licensed activities

19 General

- (1) A practising certificate, certificate of competence or licence that is taken to have been granted under this Part may be subjected to conditions or cancelled or suspended in the same way as a practising certificate, certificate of competence or licence that is granted under Part 8 or 9 of this Regulation.
- (2) Any such practising certificate or certificate of competence is to be included on the relevant register under Part 8.

20 Recognition of existing qualifications

- (1) In this clause:
former certificate means the following:
- (a) a certificate of competence granted to a person under the CMHS Act or the MHS Act,
 - (b) a qualification that was recognised by the Mining Competence Board or is recognised by the regulator as being equivalent to any such certificate of competence,
 - (c) a licence granted to a person under the CMHS Act,
 - (d) accreditation given by the Department as a cable repair signatory or as a class B competent person (cable repairs),
 - (e) a Graduate Diploma in Mine Ventilation from the University of New South Wales or a qualification that was Gazetted under clause 162 of the CMHS Regs as an equivalent qualification,
 - (f) a Statutory Coal Mine Ventilation Officer's Qualification from the University of New South Wales,
 - (g) a licence granted in respect of a licensable activity under Part 5 of the CMHS Regs as continued in force by clause 24 of this Schedule,
 - (h) a production manager permit awarded under:
 - (i) Subdivision 3 of Division 2 of Part 3 of the MHS Regs before the repeal of that regulation, or
 - (ii) Subdivision 3 of Division 2 of Part 3 of the MHS Regs as continued in force by clause 23 of this Schedule,
 - (i) an entry on the register of recognised service facilities for explosion-protected diesel engine systems used in underground coal mines kept by the Department.
- (2) The regulator may, by order published in the Gazette, declare that a former certificate is equivalent to any one or more of the following:
- (a) a practising certificate granted under Division 3 of Part 8 of this Regulation,
 - (b) a certificate of competence granted under Division 4 of Part 8 of this Regulation,
 - (c) a licence granted under Part 9 of this Regulation.
- (3) An order may:
- (a) place conditions or limitations on any such declaration, or
 - (b) specify other conditions that must be satisfied (such as experience working in a particular class of mine) for the declaration to have effect in respect of a former certificate.
- (4) A person who on the commencement of this Regulation holds a former certificate that has been declared to be:
- (a) equivalent to a certificate of competence, is taken to have been granted the relevant certificate of competence under this Regulation, or
 - (b) equivalent to a practising certificate, is taken to have been granted the relevant practising certificate under this Regulation, or
 - (c) equivalent to a licence, is taken to have been granted the relevant licence under this Regulation.
- (5) An order may apply to a former certificate referred to in paragraph (e)–(h) of the definition of *former certificate* in subclause (1), even if the former certificate is awarded after the commencement of this Regulation, and in such a case, the former

certificate is taken to be the practising certificate, certificate of competence or licence (as specified in the relevant declaration) on the award of the former certificate or on the making of the declaration (whichever is the later).

- (6) A certificate of competence, practising certificate or licence taken to have been granted under subclause (4) is subject to any condition or limitation placed on the relevant declaration.
- (7) An order under this clause may specify a period during which a former certificate is to be taken to be equivalent to a practising certificate, certificate of competence or licence and in such a case the person who held the former certificate ceases to be taken to hold the relevant practising certificate, certificate of competence or licence at the end of that period.
- (8) For the avoidance of doubt, nothing in subclause (7) affects any practising certificate, certificate of competence or licence granted to the person under Part 8 or 9 of this Regulation.
- (9) A corporation that holds a former qualification that is declared to be equivalent to a practising certificate or certificate of competence, may, if the relevant declaration so provides, hold the practising certificate or certificate of competence as if the corporation were an individual.
- (10) Subclause (9) ceases to have effect 2 years after the commencement of this clause.

21 Certificates of competency taken to be practising certificates

- (1) The regulator may, by order published in the Gazette, declare a certificate of competence granted under Division 4 of Part 8 of this Regulation to be a practising certificate granted under Division 3 of that Part.
- (2) A person who holds a certificate of competency that has been declared to be a practising certificate is taken to have been granted the relevant practising certificate under this Regulation but only if the person is 21 years of age or older.
- (3) An order under this clause may specify a period during which a certificate of competence is to be taken to be a practising certificate and in such a case the person who holds the certificate of competence ceases to be taken to hold the relevant practising certificate at the end of that period.
- (4) For the avoidance of doubt, nothing in subclause (3) affects any practising certificate granted to the person under Part 8 of this Regulation.

22 Underground mine supervisor not required to be appointed immediately

Despite any other provision of this Regulation, a mine operator of an underground mine to which Part 4 of Schedule 10 applies is not required to nominate a person to exercise the statutory function of underground mine supervisor at the mine until 3 years after the commencement of this Regulation.

23 Continued grant of production manager permits under MHS Regs

- (1) Subdivision 3 of Division 2 of Part 3 of the MHS Regs is taken to continue in force as if that Subdivision had not been repealed and any reference in that Subdivision to the Chief Inspector is taken to be a reference to the regulator.
- (2) A production manager permit cannot be granted under this clause in respect of a coal mine.
- (3) This clause ceases to have effect 2 years after the commencement of this Regulation.

24 Continued grant of licences under CMHS Regs

- (1) Part 5 of the CMHS Regs is taken to continue in force as if that Part had not been repealed but only in relation to a class of licence that the regulator has declared, by order published in the Gazette, to be a class of licence to which this clause applies.
- (2) An order may provide that this clause applies to a class of licence for a specified period only.
- (3) For the purposes of this clause, a reference in that Part to:
 - (a) the Chief Inspector is taken to be a reference to the regulator, and
 - (b) the operator is taken to be a reference to the mine operator, and
 - (c) a coal operation is taken to be a reference to a coal mine.
- (4) This clause ceases to have effect 2 years after the commencement of this Regulation.

Part 5 Miscellaneous

25 Nomination of mine operator

- (1) In this clause:
commencement day means the day on which this Regulation commences.
- (2) A person who is the operator of a coal operation under the CMHS Act or the operator of a mine under the MHS Act on the commencement day is taken, on and from the commencement day, to be the mine operator of the relevant mine.
- (3) The nomination of a person as the operator of a coal operation or a mine that has been duly made to the Chief Inspector under section 17 of the CMHS Act or section 22 of the MHS Act and that has not been rejected by the Chief Inspector before the commencement day is taken to be a notification of that person as mine operator of the relevant mine given to the regulator by the mine holder in accordance with clause 7 of this Regulation and the person nominated is taken, on and from the commencement day, to be the mine operator of the relevant mine (but only if the person is a person who is eligible to be appointed as the mine operator).
- (4) A person who is taken to be a mine operator of a mine because of this clause can be removed from that position in the same way as a person who is appointed as a mine operator by the mine holder under this Regulation.

26 Mining induced seismic activity

Clause 30 (Mining induced seismic activity) of this Regulation does not have effect until 9 months after the commencement of this Regulation.

27 Prohibited uses

Clause 34 (Prohibited uses) of this Regulation does not apply in respect of a mine other than a coal mine until 9 months after the commencement of this Regulation.

28 Temperature and moisture content of air

Clause 38 (Temperature and moisture content of air) of this Regulation does not have effect until 9 months after the commencement of this Regulation.

29 Post incident monitoring

Clause 77 (Post incident monitoring) of this Regulation does not have effect until 2 years after the commencement of this Regulation.

30 Ventilation and belt conveyor components to be FRAS

Guideline *MDG 3608 Non-metallic materials for use in underground coal mines* issued by the Department of Trade and Investment, Regional Infrastructure and Services in August 2012 is, on the commencement of this Regulation, taken to be a notice of the regulator published in the Gazette under clause 87 of this Regulation.

31 Health monitoring

- (1) Part 3 (Health monitoring) of this Regulation does not have effect until 2 years after the commencement of this Regulation.

Note. Health monitoring provisions in the WHS Regulations still apply.

- (2) Division 4 of Part 6 of the MHS Regs as in force immediately before the repeal of that Division is taken to continue in force as if it had not been repealed until 2 years after the commencement of this Regulation.

32 Saving of prohibitions, restrictions, requirements or directions under Coal Mines Regulation Act 1982

- (1) This clause applies to a prohibition, restriction, requirement or direction in force or in effect under section 63 or 63A of the *Coal Mines Regulation Act 1982* that was, immediately before the repeal of the CMHS Act, taken to continue to have effect under that Act because of clause 9 of Schedule 3 to that Act.
- (2) Any such prohibition, restriction, requirement or direction, or a court order requiring a person to comply with such a prohibition, restriction, requirement or direction, continues to have effect as if section 63 or 63A of the *Coal Mines Regulation Act 1982* had not been repealed but ceases to have effect if revoked by the regulator.

33 Quarterly reporting

- (1) The regulator may permit the mine operator of a mine to provide a report under clause 155 of the MHS Regs as in force immediately before the repeal of that clause or under clause 206 of the CMHS Regs as in force immediately before the repeal of that clause.
- (2) Any such report is taken to be a report under clause 130 of this Regulation and is taken to satisfy the requirements of clause 130 if it satisfies the requirements of the clause under which it was provided.
- (3) This clause ceases to have effect 9 months after the commencement of this Regulation.

34 Registration of plant designs and items of plant

- (1) In this clause:
transfer day means 1 July 2015 (being the day on which clause 53 of Schedule 18B to the WHS Regulations ceases to have effect).
- (2) This clause applies to plant, or the design of plant, if the plant or design is taken, immediately before the transfer day, to be registered under the *Occupational Health and Safety Regulation 2001* because of clause 53 of Schedule 18B to the WHS Regulations.
- (3) Plant to which this clause applies is taken on and from the transfer day to be registered under clause 177 of this Regulation, but only if the plant is required to be registered under that clause.
- (4) The design of plant to which this clause applies is taken on and from the transfer day to be registered under clause 177 of this Regulation, but only if the design is required to be registered under that clause.

- (5) On and from the transfer day the following notices under clause 107 (2) (a) (ii) or 112A of the *Occupational Health and Safety Regulation 2001* are taken to be orders of the regulator under clause 177 (5) of this Regulation (any such order may be varied or revoked by the regulator in the same way as an order made under that clause):
- (a) *Requirements for Registration of Explosive-Powered Tool Design* published in Gazette No 24 of 2 February 2007, page 665,
 - (b) *Requirements for Design Registration of Braking System on Plant Used in Underground Transport (TBS)* published in Gazette No 24 of 2 February 2007, page 666,
 - (c) *Requirements for Design Registration of Conveyor Belts used in Underground Mines* published in Gazette No 24 of 2 February 2007, page 666,
 - (d) *Requirements for Registration of Diesel Engine System Design* published in Gazette No 24 of 2 February 2007, page 667,
 - (e) *Requirements for design registration of canopies on continuous miners* published in Gazette No 24 of 2 February 2007, page 678,
 - (f) *Requirements for design registration of powered winding systems* published in Gazette No 24 of 2 February 2007, page 684,
 - (g) *Requirements for registration of breathing apparatus to assist escape from the underground parts of the coal operation (including self-rescuers)* published in Gazette No 185 of 21 December 2007, page 10475,
 - (h) *Requirements for Registration of Detonators used in Underground Mines at a Coal Workplace* published in Gazette No 10 of 25 January 2008, page 185,
 - (i) *Requirements for Design Registration of Shot Firing Apparatus used Underground at a Coal Workplace* published in Gazette No 6 of 21 January 2011, page 124,
 - (j) *Requirements for Design Registration for Gas Detection and Monitoring Plant and Items* published in Gazette No 90 of 16 September 2011, page 5524.
- (6) A reference in any notice listed in subclause (5) to a coal workplace or coal operation is taken to be a reference to a coal mine.
- (7) A reference to clause 53 of Schedule 18B to the WHS Regulations in any exemption granted under clause 684 of the WHS Regulations is, on and from the transfer day, taken to include a reference to clause 177 of this Regulation.

35 Prohibition notices

- (1) A prohibition or restriction imposed by the Chief Inspector on the operator of a mine under clause 158 of the MHS Regs that is in force immediately before the repeal of that clause, continues in force in respect of the mine operator of the relevant mine and is taken to be both a direction given, and a prohibition notice issued, by an inspector under section 195 of the WHS Act.
- (2) A prohibition or restriction imposed by the Chief Inspector on the operator of a coal operation under clause 51 of the CMHS Regs that is in force immediately before the repeal of that clause, continues in force in respect of the mine operator of the relevant coal mine and is taken to be both a direction given, and a prohibition notice issued, by an inspector under section 195 of the WHS Act.
- (3) The provisions of Parts 10 and 12 of the WHS Act apply to a notice that is taken to have been given under this clause in the same way that those provisions apply to a notice given under that Act.

36 Training of safety and health representatives

- (1) A person who is taken to be an industry safety and health representative, a site safety and health representative or an electrical safety and health representative because of clause 8, 9 or 10 of Schedule 1 to the WHS (Mines) Act, is taken to have completed the training accredited by the regulator for the purposes of section 45 of the WHS (Mines) Act (the *required training*) if the person has undertaken:
 - (a) the course of training required by section 165 of the CMHS Act, and
 - (b) a course of training, approved by the regulator or the regulator under the WHS Act, in respect of the giving of directions to cease work under section 85 of the WHS Act and the issuing of provisional improvement notices under section 90 of that Act.
- (2) Despite clause 168 (1) (b) of this Regulation, a person may be appointed as an industry safety and health representative even if the person has not completed the required training.
- (3) A person referred to in subclause (2) who has failed to complete the required training within 12 months after the commencement of this Regulation ceases to be an industry safety and health representative.
- (4) An industry safety and health representative cannot issue a provisional improvement notice if the person has not completed the required training.

37 Direction to make emplacement area safe

A direction given under section 99 of the CMHS Act to a person continues to have effect despite the repeal of that section and is taken to be an improvement notice, in the same terms, given to the person by an inspector. Section 192 (1) of the WHS Act does not apply to any such notice.

38 Tourist mines

- (1) This clause applies to a permit issued under section 85 of the MHS Act or section 107 of the CMHS Act that is in force immediately before the repeal of the relevant section.
- (2) The holder of the permit is, on the repeal of the relevant section, taken to be the mine operator of the tourist mine to which the permit relates.
- (3) Any such holder is not required to comply with Division 1 (other than Subdivision 1) of Part 2 of this Regulation until 2 years after the commencement of that Division if the holder, during that period:
 - (a) only carries out activities that were specified in the application for the permit, and
 - (b) complies with the conditions of the permit.
- (4) For the avoidance of doubt, the conditions of the permit are the conditions to which the permit was subject immediately before the repeal of the relevant section referred to in subclause (1).

39 Exemptions granted under CMHS Regs and MHS Regs

- (1) An exemption from a provision of the CMHS Regs granted under clause 200 or 201 of the CMHS Regs and in force immediately before the repeal of those clauses is taken, despite that repeal, to continue in force and to be an exemption on the same terms from the equivalent provision of this Regulation.
- (2) An exemption from a provision of the MHS Regs granted under clause 165 or 166 of the MHS Regs and in force immediately before the repeal of those clauses is taken,

despite that repeal, to continue in force and to be an exemption on the same terms from the equivalent provision of this Regulation.

- (3) Any such exemption ceases to have effect on whichever of the following first occurs:
 - (a) the regulator revokes the exemption by:
 - (i) notice in writing to the exempt person in the case of an exemption granted under clause 200 of the CMHS Regs or 165 of the MHS Regs, or
 - (ii) notice in the Gazette in any other case,
 - (b) the end of the specified period for which the exemption was granted (or the end of 5 years from the day on which the exemption was granted if no period was specified),
 - (c) the end of the period of 9 months after the commencement of this Regulation.
- (4) For the purposes of this clause a provision of the CMHS Regs or MHS Regs is equivalent to a provision of this Regulation if:
 - (a) the provision regulates a similar activity in broadly the same manner as the provision of this Regulation, or
 - (b) the regulator declares by notice published in the Gazette that the provision is equivalent to the provision of this Regulation.

Schedule 13 Amendment of Work Health and Safety Regulation 2011

[1] Clause 5 Definitions

Insert in alphabetical order in clause 5 (1):

Workplace Exposure Standards for Airborne Contaminants means the *Workplace Exposure Standards for Airborne Contaminants* published by Safe Work Australia on its website with a date of effect of 18 April 2013 as in force or remade from time to time.

[2] Clause 530 This Chapter does not apply to certain facilities

Omit clause 530 (2) (d).

[3] Chapter 10 Mines

Omit the Note. Insert instead:

Note. Not adopted in NSW. See *Work Health and Safety (Mines) Act 2013*.

[4] Schedule 18B Savings and transitional provisions

Insert at the end of clause 53:

- (3) This clause ceases to have effect on 1 July 2015.

[5] Schedule 18B, clause 54

Insert at the end of the clause:

- (2) This clause ceases to have effect on the commencement of the *Work Health and Safety (Mines) Regulation 2014*.

[6] Schedule 18B, clause 54A

Insert after clause 54:

54A Induction training

- (1) A person is not required to undertake general induction training, or to ensure that such training is undertaken in relation to a person carrying on construction work at a mine, if:
- (a) the person carrying on construction work is not principally or regularly engaged in construction work at the mine, and
 - (b) the person carrying on construction work has been provided with site induction training that:
 - (i) covers the relevant health and safety topics set out in the *National Code of Practice for Induction for Construction Work* (May 2007) prepared by the Commonwealth, and
 - (ii) relates to the particular mine at which the construction work is to be carried out.
- (2) This clause ceases to have effect on 31 December 2015.