



New South Wales

# Work Health and Safety (Mines and Petroleum) Amendment (Harmonisation) Regulation 2016

under the

Work Health and Safety (Mines and Petroleum Sites) 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 and Petroleum Sites) Act 2013*.

ANTHONY ROBERTS, MP  
Minister for Industry, Resources and Energy

## Explanatory note

The *Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Act 2015* (the **amending Act**) extended the *Work Health and Safety (Mines) Act 2013* (the **principal Act**) to cover petroleum sites (being workplaces at which petroleum operations are carried out). The amending Act also renamed the principal Act as the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

The objects of this Regulation are as follows:

- (a) to amend the *Work Health and Safety (Mines) Regulation 2014* and the *Work Health and Safety Regulation 2011* as a consequence of the amendments made by the amending Act,
- (b) to require an operator of a mine or petroleum site to provide the regulator with a report following the decommissioning of a well,
- (c) to exempt certain hoists used at small gemstone mines from the requirement to be design registered,
- (d) to require shotfiring apparatus that is used at an underground coal mine to be overhauled or repaired only by persons holding specified accreditation,
- (e) to omit a provision that prescribed qualifications for inspectors,
- (f) to permit the use or disclosure of information or access to documents for the purposes of the administration or enforcement of certain Acts.

This Regulation is made under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* including, sections 4, 7 (1) (f), 7B (2), 7C (1), 65 (1) (b1) and (c1) and (2), 67 (2), and 76 (the general regulation-making power) and clause 1 of Schedule 1. See also the *Work Health and Safety Act 2011* including, sections 42, 271 (3) (c) (ii) and 276 (the general regulation-making power) and Schedule 3.

## **Work Health and Safety (Mines and Petroleum) Amendment (Harmonisation) Regulation 2016**

under the

Work Health and Safety (Mines and Petroleum Sites) Act 2013

### **1 Name of Regulation**

This Regulation is the *Work Health and Safety (Mines and Petroleum) Amendment (Harmonisation) Regulation 2016*.

### **2 Commencement**

This Regulation commences on 1 February 2016 and is required to be published on the NSW legislation website.

## Schedule 1 Amendment of Work Health and Safety (Mines) Regulation 2014

**[1] The whole Regulation (except as otherwise amended by this Schedule)**

Omit “mining hazard”, “mining hazards” and “WHS (Mines) Act” wherever occurring.

Insert instead “hazard”, “hazards” and “WHS (Mines and Petroleum Sites) Act” respectively.

**[2] Clause 1 Name of Regulation**

Insert “*and Petroleum Sites*” after “*Mines*”.

**[3] Clause 3 Definitions**

Omit the definitions of *exploration site*, *extraction site*, *principal mining hazard* and *WHS (Mines) Act* from clause 3 (1).

Insert in alphabetical order:

*decommission* a well means to permanently seal off the well so that it cannot be entered.

*operator* means:

- (a) in relation to a mine, the mine operator of the mine, or
- (b) in relation to a petroleum site, the petroleum site operator of the petroleum site.

*principal control plan* for a petroleum site means:

- (a) each plan required to be prepared for the petroleum site under clause 26, and
- (b) the emergency plan for the petroleum site.

*principal hazard*—see clause 5.

*principal hazard management plan* means a plan prepared under clause 24.

*suspend* a well means to temporarily seal off the well.

*well* means a hole made by drilling from the earth’s surface for the purposes of exploring for, extracting or injecting petroleum but it does not include a hole made for a seismic shot or for stratigraphic assessment.

*well servicing* means routine maintenance or repairs on an operating well.

*well workover* means repairs or improvements to a well but does not include well servicing or routine maintenance or repairs on a well that is not operating.

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

**[4] Clauses 3 (1), definitions of “cache”, “change-over station”, “ground”, “inbye”, “outbye” and “refill station” and 177 (2), (8) (a) and (9) (a) and Schedule 3, clauses 22 (1) and 23 (1)**

Omit “in a mine” wherever occurring. Insert instead “at a mine”.

**[5] Clauses 3 (1), definitions of “hazardous zone” and “winding system”, 32 (2) (l), 36 (1) (b), 38 (b), 57 (1), 74 (2), 76 (1), note and (2), 78 (7) (a), 122 (6) (i) and (j), 128 (5), 177 (1) and 179 (a) (ix) and (x) and Schedules 2, clause (4) (c) and 3, clause 20 (1) and (4) (b)**

Omit “in an underground” wherever occurring. Insert instead “at an underground”.

**[6] Clause 3 (1), definition of “statutory function”**

Omit “clause 136 (1)”. Insert instead “clauses 136 (1) and 138A (1)”.

**[7] Clause 4**

Omit the clause. Insert instead:

**4 Expressions used in WHS Regulations**

The expressions *mine*, *mining activities*, *mining operations*, *petroleum site*, *petroleum activities* and *petroleum operations* when used in the WHS Regulations have the meaning given by the WHS (Mines and Petroleum Sites) Act or this Regulation (unless the context or subject-matter otherwise indicates or requires).

**[8] Clause 5**

Omit the clause. Insert instead:

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

In this Regulation, a *principal hazard* is any activity, process, procedure, plant, structure, substance, situation or other circumstance relating to the carrying out of:

- (a) mining operations that have 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:
  - (i) ground or strata failure,
  - (ii) inundation or inrush of any substance,
  - (iii) mine shafts and winding systems,
  - (iv) gas outbursts,
  - (v) spontaneous combustion,
  - (vi) subsidence,
  - (vii) roads or other vehicle operating areas,
  - (viii) air quality or dust or other airborne contaminants,
  - (ix) fire or explosion,
  - (x) a hazard identified by the mine operator under clause 34 of the WHS Regulations, or
- (b) petroleum operations that have 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:
  - (i) roads or other vehicle operating areas,
  - (ii) air quality or dust or other airborne contaminants,
  - (iii) fire or explosion,
  - (iv) a hazard identified by the petroleum site operator under clause 34 of the WHS Regulations.

**[9] Part 1A**

Insert after clause 5:

## **Part 1A Appointment of operator**

### **Division 1 Mines**

**[10] Clause 6 Appointment of mine operator**

Omit “extraction and exploration sites” from clause 6 (2) (e) (i).

Insert instead “mineral exploration sites and mineral extraction sites”.

**[11] Clause 6 (3)**

Omit “when”. Insert instead “if and when”.

**[12] Clause 7 Notification of mine operator to regulator**

Omit “extraction sites and exploration sites” from section 7 (4) (c) (i).

Insert instead “mineral exploration sites and mineral extraction sites”.

**[13] Part 1A, Division 2**

Insert after clause 8:

### **Division 2 Petroleum sites**

#### **8A Appointment of petroleum site operator**

- (1) The petroleum site holder of a petroleum site may appoint a person to be the operator of the petroleum site only if:
  - (a) the person is conducting a business or undertaking and is appointed in accordance with this clause to carry out petroleum operations at the petroleum site on behalf of the petroleum site holder, and
  - (b) the person has the skills, knowledge, experience and resources to exercise the functions of the operator of the petroleum site, and
  - (c) the petroleum site holder authorises the person to have management or control of the petroleum site and to discharge the duties of the operator of the petroleum site under the WHS laws.
- (2) An appointment of a person to be the operator of a petroleum site 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 operator agrees to the appointment, and
  - (d) specify:
    - (i) the name and contact details of the operator, including postal and business addresses, and
    - (ii) when the appointment takes effect, and
  - (e) describe the location of the petroleum site, including:
    - (i) the boundaries of all petroleum exploration sites and petroleum extraction sites, and
    - (ii) land title identification.

(3) A person (the *prospective petroleum site holder*) who proposes to become the petroleum site holder of a petroleum site may appoint a person to be the operator of the petroleum site in accordance with subclauses (1) and (2) and any such appointment takes effect if and when the prospective petroleum site holder becomes the petroleum site holder of the petroleum site, but only if, at that time, the person is still eligible to be appointed as the operator.

(4) The petroleum site holder must give the operator all relevant information held by or under the control of the petroleum site holder that may reasonably be required by the operator to discharge the duties imposed on the 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 petroleum site survey plan prepared under clause 122.

(5) The operator of a petroleum site who ceases or intends to cease being the operator must ensure, so far as is reasonably practicable, that all records the operator has kept under the WHS laws are given to the petroleum site holder of the petroleum site, or the person who is to become the new operator, before the new 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 petroleum site record kept under clause 133.

**Note.** The new 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.

#### **8B Notification of petroleum site operator to regulator**

(1) The petroleum site holder of a petroleum site 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 petroleum site holder of a petroleum site is the operator of the petroleum site, the holder must give the regulator notice of this fact before petroleum operations commence at the petroleum site.

(3) If the petroleum site holder of a petroleum site is not the operator of the petroleum site, the petroleum site holder must give the regulator notice of the appointment of the operator of the petroleum site.

(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 petroleum site, including:
  - (i) the boundaries of all petroleum exploration sites and petroleum extraction sites, and
  - (ii) land title identification.

(5) A notice under subclause (3) must be accompanied by a copy of the appointment document.

- (6) The petroleum site holder must give written notice to the regulator of any change to the appointment of an operator of the petroleum site or any termination of the appointment.
- (7) The petroleum site 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.

**8C Regulator may direct that one or more petroleum site operators be appointed**

- (1) The regulator may, by notice in writing given to a petroleum site holder of a petroleum site, direct the holder to:
  - (a) appoint an operator for the petroleum site, or
  - (b) appoint more than one operator for different parts of the petroleum site, or
  - (c) appoint a single operator for both the petroleum site and another petroleum site of the holder (but only if the petroleum sites are geographically close to one another).
- (2) A petroleum site 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 operator is appointed for different parts of a petroleum site under this clause, each of those parts is taken to be a separate petroleum site for the purposes of this Regulation.
- (4) If a single operator is appointed for more than one petroleum site under this clause, those petroleum sites are taken to be a single petroleum site for the purposes of this Regulation.
- (5) The regulator is to ensure that the petroleum site 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 petroleum site 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 petroleum site or petroleum sites to which the notice relates,
  - (c) the difficulty for the petroleum site holder or operator of the petroleum site 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.

**[14] Clauses 9 (5), 10 (2) and (3), 11 (2), 12, 13, 15–28, 31–35, 38–44, 88, 90–95, 103–108, 124–126, 128 and 131–134 and Schedule 2 (except where firstly occurring in clauses 2 (1) and 3 (1))**

Omit “mine operator” wherever occurring. Insert instead “operator”.

**[15] Clauses 9, 10, 11 (2), 12–28, 31–35, 38–44, 88, 90–95, 103–108, 124–126, 128 and 131–134 and Schedule 2**

Insert “or petroleum site” after “mine” wherever occurring but not where the word “mine” is used in the expressions “coal mine”, “mine operator”, “mine record”, “mine survey plan”, “opal mine” or “underground mine”.

**[16] Clauses 9, 13, 14, 17, 20–24, 26, 88, 94, 106, 124, 128 and Schedule 2, clause 1**

Insert “or petroleum operations” after “mining operations” wherever occurring.

**[17] Clause 9 (1), note, 10 (1) (d), note 1 and (2), note 1 and 33 (1), note**

Omit “clause 4 of this Regulation” wherever occurring.

Insert instead “section 4 of the WHS (Mines and Petroleum Sites) Act”.

**[18] Clauses 9 (7) (a) and 33 (5)**

Omit “a mine operator” wherever occurring.

Insert instead “an operator of a mine or petroleum site”.

**[19] Clause 10 Review of control measures**

Omit “a mine operator” from note 3 to clause 10 (1).

Insert instead “an operator of a mine or petroleum site”.

**[20] Clause 11 Record of certain reviews of control measures—operator**

Omit “a mine operator at a mine” from clause 11 (1).

Insert instead “an operator of a mine or petroleum site”.

**[21] Clauses 12 (1), 19, 22 (1) (a) (i) and (b) (ii)**

Insert “of the mine or petroleum site” after “operator”.

**[22] Clause 14 Content of safety management system**

Omit “the mine operator’s health and safety policy” from clause 14 (1) (a).

Insert instead “the health and safety policy of the operator of the mine or petroleum site”.

**[23] Clause 14 (1) (d) (iv)**

Omit “and other persons nominated to exercise a statutory function at the mine”.

**[24] Part 2, Division 1, Subdivision 3, heading**

Omit “mine”.

**[25] Clause 21 Duty on contractor to provide information to operator**

Insert “of the mine or petroleum site” after “operator” where firstly occurring.

**[26] Clause 26 Principal control plans**

Omit “in which” wherever occurring in clause 26 (4), (5) and (6). Insert instead “at which”.



**[27] Clause 26 (7)**

Insert after clause 26 (6):

**(7) Well integrity control plan**

The operator of a petroleum site at which there is a risk to health and safety associated with well integrity must prepare a well integrity control plan for the petroleum site that sets out the means by which the operator will manage those risks in accordance with clause 9.

**[28] Part 2, Division 4, heading**

Insert “**and petroleum sites**” after “**mines**”.

**[29] Clause 27 Communication between outgoing and incoming shifts**

Omit “the mine workings” from clause 27 (a).

Insert instead “the workings at the mine or petroleum site”.

**[30] Clause 32 Electrical safety**

Omit “the mine’s electrical installations” from clause 32 (2) (f).

Insert instead “the electrical installations at the mine or petroleum site”.

**[31] Clause 32 (2) (o)**

Omit “and have a supply voltage that is not extra-low voltage”.

Insert instead “or that have a supply voltage that is extra-low voltage”.

**[32] Clause 34 Prohibited items and substances**

Omit “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”.

Insert instead “Schedule 4 is not used in a place or for a purpose that is prohibited or restricted as set out in that Schedule”.

**[33] Clause 35 Closure, suspension or abandonment of mine**

Insert “or petroleum activities” after “mining activities” in clause 35 (2).

**[34] Clause 35 (5)**

Omit the subclause. Insert instead:

(5) In this clause, *operator* of:

(a) a mine includes the mine holder of the mine, or

(b) a petroleum site includes the petroleum site holder of the petroleum site.

**[35] Clause 36 Minimum age to work at mine or petroleum site**

Omit “mining activities or operations of a kind referred to in section 7 (2) (a), (b) or (d)” from clause 36 (1) (a).

Insert instead “mining operations of a kind referred to in section 7 (1) (a), (b) or (d)”.

**[36] Clause 36 (1A)**

Insert after clause 36 (1):

(1A) The operator of a petroleum site must take all reasonable steps to ensure that a person under the age of 16 years is not engaged to carry out any work in

respect of petroleum operations of a kind referred to in section 7B (1) (a), (b) or (d) of the WHS (Mines and Petroleum Sites) Act.

- [37] **Clauses 36 (2) (b), 38 (b), 73 (2) (a), 96 (2) (a), 100 (1), 101 (2) (b) and (c) and (3) (a) and (b) and 168 (2) (b)**

Omit “in the” wherever occurring. Insert instead “at the”.

- [38] **Part 2, Division 4, Subdivision 2 Air quality and monitoring**

Insert “and petroleum sites” after “including mines” in the Note.

- [39] **Part 2, Division 4A, heading**

Insert after clause 44:

#### **Division 4A Specific control measures—all mines**

- [40] **Clauses 44A and 44B**

Renumber clauses 29 and 30 as clauses 44A and 44B respectively and move the renumbered clauses to after the heading to Part 2, Division 4A (as inserted by item [39]).

- [41] **Clause 58 Records of air monitoring**

Omit “of a mine” from clause 58 (1). Insert instead “of an underground mine”.

- [42] **Clause 65 Coal dust explosion**

Omit clause 65 (4) (c) (ii).

- [43] **Clause 67 Subsidence**

Omit “form” from clause 67 (2) (d). Insert instead “manner and form”.

- [44] **Clause 78 Use of plant in hazardous zone (explosion-protection required)**

Omit “in a coal mine” from clause 78 (5). Insert instead “at a coal mine”.

- [45] **Clauses 80 (1), note, 152 (2) (c) and 157 (5) and (6)**

Omit “feeding” wherever occurring. Insert instead “feeder”.

- [46] **Part 2, Division 6, Subdivision 1, heading**

Omit “for all mines”.

- [47] **Clause 88 Duty to prepare emergency plan**

Omit clause 88 (3).

- [48] **Clause 93 Testing of emergency plan**

Omit “the emergency service organisations”.

Insert instead “any emergency service organisations”.

- [49] **Clause 103 Duty to inform workers about safety management system**

Omit clause 103 (3). Insert instead:

- (3) The operator of a mine or petroleum site must ensure that the following plans (if required to be prepared in relation to the mine or petroleum site) are readily accessible to all workers at the mine or petroleum site:
  - (a) each principal control plan,

(b) the ventilation control plan,

(c) the emergency plan.

Maximum penalty:

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

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

**[50] Clause 119 Health monitoring reports kept as records**

Insert “or 8A (4) or (5)” after “(5)” in clause 119 (4) (c).

**[51] Part 5, heading**

Omit “**Mine survey**”. Insert instead “**Survey**”.

**[52] Clause 122 Survey plan must be prepared**

Omit “following mines” from clause 122 (3). Insert instead “following”.

**[53] Clause 122 (3) (e)**

Insert after clause 122 (3) (d):

(e) a petroleum site.

**[54] Clause 122 (4)**

Omit “the mine operator”. Insert instead “The operator”.

**[55] Clause 122 (4A)**

Insert after clause 122 (4):

(4A) The operator of a petroleum site must ensure that a detailed plan of the petroleum site is prepared and that the plan is certified by a surveyor registered under the *Surveying and Spatial Information Act 2002*.

Maximum penalty:

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

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

**[56] Clause 122 (5)**

Insert “or petroleum site” after “mine”.

**[57] Clause 122 (6)**

Omit “The plan”. Insert instead “The survey plan for a mine”.

**[58] Clause 122 (6A)**

Insert after clause 122 (6):

(6A) The survey plan for a petroleum site must show all wells present at the petroleum site, including any wells that are suspended or decommissioned.

**[59] Clauses 124 (1) and 125**

Omit “mine survey plan” wherever occurring. Insert instead “survey plan”.

**[60] Clause 127**

Omit the clause. Insert instead:

**127 Survey plan to be provided to regulator**

- (1) The operator of a mine or petroleum site must provide a copy of the survey plan of the mine or petroleum site to the regulator in the manner and form required by the regulator:
  - (a) if required to do so by the regulator by notice published in the Gazette or by notice given to the operator, or
  - (b) in the case of a mine—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), or
  - (c) in the case of a petroleum site—as soon as is reasonably practicable after the decommissioning of the last well at the petroleum site (in which case the plan must show all decommissioned wells at the site).

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 each survey plan provided to the regulator under subclause (1) (b) or (c).
- (3) The regulator may make a copy of a survey plan available to a person:
  - (a) for the purposes of the administration of the *Dams Safety Act 2015*, the *Mine Subsidence Compensation Act 1961*, the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*, or
  - (b) if the regulator is satisfied that the person has a legitimate concern about a risk to the health and safety of a person and making the survey plan available is likely to lessen that risk, or
  - (c) if the regulator is satisfied that making the plan available is otherwise in the public interest.
- (4) The regulator may impose conditions with respect to a survey plan being examined by, or provided to, any such person.

**[61] Clause 127A**

Insert before clause 128:

**127A Report on decommissioned wells to be provided to regulator**

The operator of a mine or petroleum site must as soon as practicable after decommissioning a well provide to the regulator, in the manner and form required by the regulator, a report that sets out the date on which the well was decommissioned, why it was decommissioned and how the decommissioning took place.

Maximum penalty:

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

**[62] Clause 128 Duty to notify regulator of certain incidents**

Omit “2.5% by volume or greater” from paragraph (b) of the definition of *high potential incident* in clause 128 (5).

Insert instead “greater than 2% by volume”.

**[63] Clause 128 (5), definition of “high potential incident”**

Omit “any incident referred to in clause 179 (a) (xvi) or (xvii)” from paragraph (m).

Insert instead “damage to any plant or structure or a failure of ground”.

**[64] Clause 129 Duty to notify regulator of other matters**

Insert after the definition of *reportable event* in clause 129 (1):

*reportable event*, in respect of a petroleum site, means any of the following events:

- (a) the commencement of petroleum operations at the petroleum site,
- (b) the connection of an electricity supply to the petroleum site.

**[65] Clause 129 (3)**

Omit the subclause. Insert instead:

- (3) The operator of a mine or petroleum site must give notice of a reportable event in respect of the mine or petroleum site:
  - (a) no later than one month before the event occurs, and
  - (b) in respect of the recommencement of normal mining operations at a mine following any significant interruption to, or suspension of, mining activities at the mine as soon as is reasonably practicable after the operator becomes aware that the mining operations are to recommence.

**[66] Clause 129 (5) (a)**

Omit “a statutory function”. Insert instead “a key statutory function”.

**[67] Clause 129 (5A) and (6)**

Omit clause 129 (6). Insert instead:

- (5A) A notice in relation to the reportable event of the commencement of petroleum operations at a petroleum site must include the following:
  - (a) the date of the commencement of petroleum operations at the petroleum site,
  - (b) the date that petroleum operations at the petroleum site are intended to conclude,
  - (c) the global positioning satellite coordinates of the area covered by the petroleum site and the coordinates of the location of all proposed wells,
  - (d) details of the scope, character and location of the petroleum operations at the petroleum site,
  - (e) details of the petroleum sought, extracted or otherwise dealt with at the petroleum site.
- (6) The regulator may require an operator of a mine or petroleum site to provide, by notice, any additional particulars in relation to any of the matters referred to in subclause (4), (5) or (5A) or in relation to the performance of duties by the operator.

**[68] Clause 129 (9)**

Omit “A mine operator”. Insert instead “An operator of a mine or petroleum site”.

**[69] Clause 129 (9)**

Omit “the mine operator”. Insert instead “the operator”.

**[70] Clause 129 (9A)**

Insert after clause 129 (9):

- (9A) An operator of a mine is not required to give notice in relation to a significant interruption to, or suspension of, mining activities at the mine if the operator has already notified the regulator of the interruption or suspension in relation to an incident referred to in clause 128 or a notifiable incident.

**[71] Clause 129 (10)**

Omit “a mine operator”. Insert instead “an operator of a mine or petroleum site”.

**[72] Clause 129 (12)**

Omit “The mine operator of a mine”.

Insert instead “The operator of a mine or petroleum site”.

**[73] Part 7, heading**

Omit “**Record**”. Insert instead “**or petroleum site record**”.

**[74] Clauses 133 (1) and 134 (2) and (3)**

Omit “mine record” wherever occurring. Insert instead “record”.

**[75] Clauses 133 (2) and 134 (1)**

Omit “mine record” wherever occurring.

Insert instead “record for the mine or petroleum site”.

**[76] Part 8, Division 2, heading**

Omit the heading. Insert instead:

**Division 2 Statutory functions at mines**

**[77] Part 8, Division 2A**

Insert after clause 138:

**Division 2A Statutory functions at petroleum sites**

**138A Statutory functions**

- (1) Each of the functions set out in Schedule 10A is, for the purposes of this Regulation, a *statutory function* at a petroleum site.
- (2) Any such function can be exercised at the petroleum site only by an individual who is nominated to exercise the function by the operator of the petroleum site.
- (3) An individual may be nominated to exercise a statutory function at a petroleum site by the operator of the petroleum site 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 and an individual may exercise more than one statutory function (including at different petroleum sites).

**138B Obligations on operator of petroleum site**

- (1) The operator of a petroleum site must ensure that a statutory function is exercised at the petroleum site only by an individual who meets the requirements for nomination specified in Schedule 10A for the petroleum site.  
Maximum penalty:
  - (a) in the case of an individual—\$6,000, or
  - (b) in the case of a body corporate—\$30,000.
- (2) The operator of a petroleum site must ensure that any individual who is nominated to exercise a statutory function at the petroleum site 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.

**138C Obligation on nominee**

An individual who is nominated to exercise a statutory function at a petroleum site must, as soon as is reasonably practicable, inform the operator of the petroleum site 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.

**[78] Clause 145 Register of practising certificates**

Omit "mine operators" from clause 145 (2).

Insert instead "operators of mines or petroleum sites".

**[79] Clauses 145 (5), 146 (3) and 148 (3)**

Omit "Mining Competence Board" wherever occurring.

Insert instead "Mining and Petroleum Competence Board".

**[80] Part 11, heading**

Insert "**and Petroleum**" after "**Mining**".

**[81] Clause 164 Membership of Board**

Omit "are to be selected" from clause 164 (2). Insert instead "is to be selected".

**[82] Clause 164 (2A) and (2B)**

Insert after clause 164 (2):

- (2A) Each member of the Board appointed by the Minister to represent the interests of employers in the petroleum industry is to be selected from persons nominated by the Australian Petroleum Production and Exploration Association.

- (2B) Each member of the Board appointed by the Minister to represent the interests of employees in the petroleum industry is to be selected from persons nominated by a union selected by the Minister, being a union that the Minister is satisfied has at least 50 members employed in the petroleum industry.

**[83] Clause 164 (4)**

Omit “subclause (1) or (2)”. Insert instead “subclause (1)–(2B)”.

**[84] Clause 173A**

Insert after clause 173:

**173A Removal of gas from underground coal mine not petroleum operations**

For the purposes of sections 7 (1) (f) and 7B (2) of the Act, drilling from the surface to extract gas, and the subsequent extraction of that gas, from a coal seam and surrounding strata for the purposes of ensuring safety at an underground coal mine are prescribed as mining operations and are declared not to be petroleum operations.

**[85] Clause 175 Reviewable decisions**

Insert after clause 175 (a):

- (a1) clause 8C (1) (a decision to give a notice)—the petroleum site holder to whom the notice is given,

**[86] Clause 176 Qualifications of inspectors**

Omit the clause.

**[87] Clause 177 Registration of plant designs and items of plant**

Insert “(other than an exempt hoist)” after “winding system” in clause 177 (2).

**[88] Clause 177 (3) and (4)**

Omit the subclauses. Insert instead:

- (3) For the purposes of section 42 of the WHS Act, each of the following items of plant must be registered under Part 5.3 of the WHS Regulations:
- (a) a winding system (including an exempt hoist) that is used at a mine,
  - (b) a diesel engine system or a booster fan that is used at an underground coal mine.
- (4) Despite clause 272 of the WHS Regulations, registration of an item required to be registered under subclause (3) takes effect on the day that registration is granted by the regulator (or on a later day specified by the regulator in the notice to the applicant under clause 269 (4) of the WHS Regulations) and expires one year after the day on which it takes effect.

**[89] Clause 177 (8) (a)**

Omit “in any mine”. Insert instead “at any mine”.

**[90] Clause 177 (12)**

Insert after clause 177 (11):

- (12) In this clause:
- exempt hoist* means a hoist at a small gemstone mine that:
- (a) is used to lift persons, and



- (b) lifts persons no more than 40 metres, and
- (c) lifts no more than 2 persons, and
- (d) was manufactured before 1 September 2010.

**[91] Clause 177A**

Insert after clause 177:

**177A Shotfiring apparatus to be overhauled or repaired by accredited person**

The operator of an underground coal mine must ensure that shotfiring apparatus (including exploders and circuit testers) used at the mine is not overhauled or repaired by a person unless the person is accredited by NATA to carry out the overhauling or repair in accordance with that accreditation.

Maximum penalty:

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

**[92] Clause 179 Dangerous incidents**

Insert at the end of the clause:

- (g) any initial indication that there may be a fault in the cementing of a casing string forming part of the cement casing of a well.

**[93] Clause 181 Corresponding WHS laws**

Insert at the end of the clause:

- (d) the *Petroleum and Gas (Production and Safety) Act 2004* of Queensland,
- (e) the *Petroleum and Geothermal Energy Resources Act 1967* of Western Australia.

**[94] Clause 183 Exemptions for mines and petroleum sites where only non-mechanical exploration occurs**

Insert “or petroleum” after “minerals” in the definition of *non-mechanical exploration* in clause 183 (1).

**[95] Clause 183 (2)–(4)**

Omit the subclauses. Insert instead:

- (2) A mine at which the only mining operation carried out is non-mechanical exploration 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.
- (3) A petroleum site at which the only petroleum operation carried out is non-mechanical exploration is exempt from the following provisions of this Regulation:
  - (a) clauses 8A–8C,

- (b) Parts 2–5,
  - (c) clause 129,
  - (d) Parts 7 and 8,
  - (e) clause 177,
  - (f) Schedules 1–4, 7 and 10A.
- (4) Mining operations or petroleum operations are, for the purposes of clause 129, taken to commence at a mine or petroleum site referred to in subclause (2) or (3) as soon as mining operations or petroleum operations other than non-mechanical exploration commence at the mine or petroleum site.

**[96] Clause 185 Exemptions granted by regulator**

Omit “the commencement of this clause” from clause 185 (4).

Insert instead “the commencement of the *Work Health and Safety (Mines and Petroleum) Amendment (Harmonisation) Regulation 2016*”.

**[97] Schedule 1, heading**

Omit “**mining**”.

**[98] Schedule 1, Part 1, heading**

Insert before clause 1:

## **Part 1 Mines**

**[99] Schedule 1, clause 2 (1) (a)**

Omit “levies”. Insert instead “levees”.

**[100] Schedule 1, clauses 3A–3C**

Renumber clauses 7, 8 and 9 as clauses 3A, 3B and 3C respectively and insert after clause 3.

**[101] Schedule 1, Part 2**

Insert before clause 4:

## **Part 2 Mines and petroleum sites**

**[102] Schedule 1, clause 6 (1) (c), (d) and (g) and (2)**

Insert “or petroleum site” after “mine” wherever occurring.

**[103] Schedule 1, clause 6 (1) (d)**

Omit “shaft or outlet”. Insert instead “shaft, outlet or well”.

**[104] Schedule 2 Principal control plans—matters to be addressed**

Omit “The mine operator” wherever occurring in clauses 2 (1) and 3 (1).

Insert instead “The operator of a mine or petroleum site”.

**[105] Schedule 2, clause 2 (4) (c)**

Omit “in an underground coal mine or a reclaim tunnel”.

Insert instead “at an underground coal mine or in a reclaim tunnel”.

**[106] Schedule 2, clause 3 (3) (g)**

Omit “the mine’s electrical distribution system”.

Insert instead “the electrical distribution system at the mine or petroleum site”.

**[107] Schedule 2, clause 3 (3) (p)**

Omit “the mine’s electrical control system software and control circuits”.

Insert instead “the electrical control system software and control circuits at the mine or petroleum site”.

**[108] Schedule 2, clause 5**

Insert after clause 4:

**5 Well integrity control plan**

- (1) A well integrity control plan must set out the control measures for risks to health and safety associated with a well at the petroleum site taking into account the following:
  - (a) the overall life cycle of a well, including the design, construction, suspension and decommissioning of the well and how risks to the health and safety of persons from the well will be managed at all stages of that life cycle,
  - (b) the maintenance of the casing and cementing in a well,
  - (c) the risks associated with pressure in a well, including the effect of pressure on casing, cementing, well heads, equipment and fracture stimulation,
  - (d) the need to install in a well subsurface safety devices (being devices designed to automatically cut off the flow of petroleum or water from a well, if damaged equipment would otherwise let the water or petroleum escape),
  - (e) the risks associated with the use of drilling fluid,
  - (f) the risks associated with fracture stimulation (including by the use of hazardous chemicals or explosives),
  - (g) the risks associated with a well that is suspended or decommissioned.
- (2) A well integrity control plan must also set out the following:
  - (a) the program for regularly inspecting and monitoring each well,
  - (b) the program of maintenance for each well,
  - (c) the arrangements for security at the site of each well,
  - (d) how the risks to the health and safety of persons at future coal mines from decommissioned wells will be managed.

**[109] Schedule 3 High risk activities**

Insert “and petroleum sites” after “mines” in the heading to Part 1.

**[110] Schedule 3, clause 1**

Insert “and petroleum sites” after “mines”.

**[111] Schedule 3, clause 5 (1)**

Omit the subclause. Insert instead:

- (1) Connecting electricity to the mine so that the highest voltage underground is greater than 12,000 volts is identified as a high risk activity.

**[112] Schedule 3, clause 9 (3) (a)**

Omit the paragraph.

**[113] Schedule 3, Part 6**

Insert after clause 29:

## **Part 6 Petroleum sites**

### **30 Application of Part**

This Part applies to petroleum sites only.

### **31 Well workover**

- (1) Well workover is identified as a high risk activity.
- (2) The waiting period for the activity is 14 days.
- (3) The information and documents that must be provided in relation to the activity are as follows:
  - (a) a description and a diagram of the well before the workover,
  - (b) a description and a diagram of the proposed well following the workover,
  - (c) a brief history of the well.

### **32 Decommissioning a well**

- (1) Decommissioning a well is identified as a high risk activity.
- (2) The waiting period for the activity is 14 days.
- (3) The information and documents that must be provided in relation to the activity are as follows:
  - (a) the name of the well,
  - (b) the reason for decommissioning the well,
  - (c) the proposed program for decommissioning the well including details of how the risks to the health and safety of workers and other persons from the decommissioned well will be managed.

### **33 Suspending a well**

- (1) Suspending a well is identified as a high risk activity.
- (2) The waiting period for the activity is 14 days.
- (3) The information and documents that must be provided in relation to the activity are as follows:
  - (a) the name of the well,
  - (b) the reason for suspending the well,
  - (c) the period of the proposed suspension,

- (d) the manner in which the well is to be suspended including a diagram of the well showing any proposed barriers.

**[114] Schedule 4**

Omit the Schedule. Insert instead:

## **Schedule 4 Prohibited items and substances**

(Clause 34)

### **1 Internal combustion engines**

Internal combustion engines (other than compression ignition engines) must not be used underground.

### **2 Fuels**

- (1) Petrol and other fuels must not be used in a combustion engine at an underground mine unless the petrol or fuel is suitable for use underground.
- (2) Despite subclause (1), the following must not be used in a combustion engine at an underground mine:
  - (a) compressed natural gas,
  - (b) hydrogen,
  - (c) liquid petroleum gas.
- (3) In this clause:  
*combustion engine* includes an internal combustion engine and an external combustion engine.

### **3 Ignition sources**

- (1) Ignition sources (such as lighters, matches and naked flames) must not be used as follows:
  - (a) at 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) by a person at any mine or petroleum site, while the person is:
    - (i) carrying, handling or using any explosive or initiating system, or
    - (ii) within 8 metres of any explosive or initiating system,
  - (c) at a work area at a mine or petroleum site while solvents are being used, or flammable vapours are present, at that work area,
  - (d) in a refuge chamber at an underground mine during an emergency.
- (2) This clause does not apply to explosive power tools or to an explosive to which clause 5 applies.

### **4 Uncoated or unprotected light metal alloys or aluminium**

Uncoated or unprotected light metal alloys or aluminium must not be used in the following places at an underground coal mine:

- (a) in a hazardous zone,
- (b) on the inbye side of the first cut-through outbye from a longwall face,
- (c) in any rotating component or in any component subject to impacts.

## **5 Explosives**

- (1) The following must not be used at a mine or petroleum site except for the purposes of shotfiring:
  - (a) explosives,
  - (b) detonators,
  - (c) explosives testing equipment,
  - (d) exploders.
- (2) Explosives testing equipment or exploders must not be stored at an underground coal mine.
- (3) The batteries of explosives testing equipment or exploders must not be changed while at an underground coal mine.
- (4) This clause does not apply to explosive power tools.

**[115] Schedule 7, heading**

Omit “for a mine”.

**[116] Schedule 7, clauses 1 (1), (4) and (7), 2 (3) and 5 (1) and (4)**

Insert “or petroleum site” after “mine” wherever occurring.

**[117] Schedule 7, clause 1 (2)**

Omit “The”. Insert instead “For a mine, the”.

**[118] Schedule 7, clause 1 (3)**

Omit “A”. Insert instead “For a mine, a”.

**[119] Schedule 7, clause 1 (3A)**

Insert after clause 1 (3):

- (3A) For a petroleum site, a brief description of the nature of the petroleum site and petroleum operations.

**[120] Schedule 7, clause 4 (3)**

Omit “Arrangements”. Insert instead “For a mine, arrangements”.

**[121] Schedule 7, clause 5 (3) and (6)**

Omit “Procedures” wherever occurring. Insert instead “For a mine, procedures”.

**[122] Schedule 7, clause 5 (5)**

Omit “Procedures for emergency sealing of an underground coal mine”.

Insert instead “For an underground coal mine, procedures for emergency sealing of the mine”.

**[123] Schedule 8, heading**

Omit “mining”.

**[124] Schedule 9 Information to be included in mine quarterly report**

Omit clause 2.

**[125] Schedule 9, clause 13 (2)**

Insert “medical treatment within the meaning of the WHS Act and includes” after “means”.

**[126] Schedule 10, heading**

Insert “**at mines**” after “**functions**”.

**[127] Schedule 10, clause 12 (2)**

Omit “supersedes and”.

**[128] Schedule 10, clause 15 (2)**

Omit the subclause. Insert instead:

- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must:
  - (a) have a proficiency certificate (issued by State Training Services) in a mechanical trade, or
  - (b) have been continuously employed as a mechanical tradesperson at a coal mine since 21 December 2004, or
  - (c) have a qualification that the regulator has declared, by notice published in the Gazette, to be a qualification equivalent to a qualification referred to in paragraph (a) or (b).

**[129] Schedule 10, clause 23 (2)**

Omit the subclause. Insert instead:

- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must:
  - (a) have a proficiency certificate (issued by State Training Services) in a mechanical trade, or
  - (b) have been continuously employed as a mechanical tradesperson at a coal mine since 21 December 2004, or
  - (c) have a qualification that the regulator has declared, by notice published in the Gazette, to be a qualification equivalent to a qualification referred to in paragraph (a) or (b).

**[130] Schedule 10A**

Insert after Schedule 10:

## **Schedule 10A Statutory functions at petroleum sites**

(Clause 138A)

### **1 Rig manager (drilling operations)**

- (1) The statutory function of rig manager (drilling operations) is to manage all drilling rig operations at the petroleum site.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold the Nationally Recognised Training unit *RII50815 Diploma of Drilling Oil & Gas (On shore)* (or any Nationally Recognised Training unit that is equivalent to that unit).

**2 Rig manager (well workover and well servicing operations)**

- (1) The statutory function of rig manager (well workover and well servicing operations) is to manage all drilling rig operations for well workovers and well servicing at the petroleum site.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold the Nationally Recognised Training unit *RII51015 Diploma of Well Servicing Operations* (or any Nationally Recognised Training unit that is equivalent to that unit).

**3 Driller (drilling operations)**

- (1) The statutory function of driller (drilling operations) is to supervise the conduct of drilling, well control and other work carried out in connection with drilling at the petroleum site.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold the Nationally Recognised Training unit *RII41115 Certificate IV in Drilling Oil & Gas (On shore)* (or any Nationally Recognised Training unit that is equivalent to that unit).

**4 Driller (well workover and well servicing operations)**

- (1) The statutory function of driller (well workover and well servicing operations) is to supervise the conduct of drilling, well control and other work carried out in connection with well workovers and well servicing at the petroleum site.
- (2) The requirement for nomination to exercise the statutory function is that the individual nominated must hold the Nationally Recognised Training unit *RII41215 Certificate IV in Well Servicing Operations* (or any Nationally Recognised Training unit that is equivalent to that unit).

**[131] Schedule 12 Savings and transitional provisions**

Insert after clause 14 (2):

- (3) An approval that was granted before the repeal of clause 88 of the CMHS Regs (including any condition to which the approval is subject) may be amended by the regulator at any time by notice in writing given to the holder of the approval.

**[132] Schedule 12, clause 15 (3)**

Insert after clause 15 (2):

- (3) An approval that was granted before the repeal of section 100 of the CMHS Act (including any condition to which the approval is subject) may be amended by the regulator at any time by notice in writing given to the holder of the approval.

**[133] Schedule 12, clause 16 (3)**

Insert after clause 16 (2):

- (3) An approval that was granted before the repeal of section 101 of the CMHS Act (including any condition to which the approval is subject) may be amended by the regulator at any time by notice in writing given to the holder of the approval.

**[134] Schedule 12, clause 18**

Omit “in an underground”. Insert instead “at an underground”.



**[135] Schedule 12, clause 18 (b)**

Omit “in the mine”. Insert instead “at the mine”.

**[136] Schedule 12, Part 6**

Insert after Part 5:

**Part 6 Provisions consequent on commencement of Work Health and Safety (Mines and Petroleum) Amendment (Harmonisation) Regulation 2016**

**Division 1 Preliminary**

**40 Definitions**

In this Part:

*commencement day* means 1 February 2016.

*existing petroleum site* means a petroleum site at which petroleum operations are carried out immediately before (or within 1 month before) the commencement day.

*Existing Safety Requirements* means the *Schedule of Onshore Petroleum Exploration and Production Safety Requirements* published by the former Department of Mineral Resources in August 1992.

*transition period* means the period commencing on the commencement day and ending 12 months after the commencement day.

**41 References in Existing Safety Requirements**

For the purposes of this Part, the following references in the Existing Safety Requirements are to be construed as follows:

- (a) petroleum site—in the case of a reference to “petroleum exploration programme”, “production facility”, “installation” or “site”,
- (b) the regulator—in the case of a reference to the Director-General or an inspector,
- (c) the Department—in the case of a reference to the Department of Mineral Resources,
- (d) the petroleum site holder—in the case of a reference to titleholder in clause 202 of the Existing Safety Requirements,
- (e) the petroleum site operator—in the case of a reference to the “title holder” or the “titleholder” (other than in clause 202 of the Existing Safety Requirements),
- (f) approved by the regulator—in the case of something being approved.

**Division 2 Alternative compliance and deferred provisions**

**42 Safety Management system**

- (1) The operator of an existing petroleum site is not required to comply with Subdivision 2 of Division 1 of Part 2 of this Regulation during the transition period if the operator instead complies with clause 201 of the Existing Safety Requirements during that period.

- (2) In such a case, the safety management plan maintained by the operator under clause 201 of the Existing Safety Requirements is, during the transition period, taken to be the safety management system for the petroleum site.

**43 Principal hazard management plans and principal control plans**

- (1) The operator of a petroleum site is not required to comply with Divisions 2 and 3 of Part 2 of this Regulation (other than clause 26 (7)) during the transition period.
- (2) The operator of a petroleum site is not required to comply with clause 26 (7) of this Regulation during the transition period if the operator instead complies with the clauses 505–516, 519, 520, 525 and 730 of the Existing Safety Requirements during that period.
- (3) An operator of a petroleum site who relies on this clause and who considers, within the transition period, a new control measure in relation to a principal hazard at the petroleum site, must keep a record (as part of the record for the petroleum site) setting out the reasons for adopting or rejecting the control measure.

**44 Air quality and monitoring**

The operator of a petroleum site is not required to comply with Subdivision 2 of Division 4 of Part 2 of this Regulation during the transition period.

**45 Emergency plans**

The operator of a petroleum site is not required to comply with Subdivision 1 of Division 6 of Part 2 of this Regulation during the transition period.

**46 Information, training and instruction**

The operator of a petroleum site is not required to comply with Division 7 of Part 2 of this Regulation during the transition period.

**47 Survey plans**

The operator of a petroleum site is not required to comply with Part 5 of this Regulation (other than clause 126) during the transition period if the operator instead complies with clause 503 of the Existing Safety Requirements during that period.

**48 Statutory functions**

Division 2A of Part 8 of this Regulation and Schedule 10A do not have effect during the transition period.

**Division 3 High risk activities**

**49 Well workover**

- (1) This clause applies to the high risk activity of well workover if an application for approval to carry out the activity has been made under clause 731 of the Existing Safety Requirements before the commencement day and that application has not been refused before that day.
- (2) Clause 33 of this Regulation applies to the activity subject to the following:
  - (a) the making of the application is taken to satisfy the requirement to give notice to the regulator,

- (b) the waiting period for the activity:
    - (i) is taken to have elapsed if approval was granted before the commencement day, or
    - (ii) is taken to have commenced on the commencement day in any other case,
  - (c) the manner of carrying out the activity is the manner specified in the application, subject to any conditions to which the approval may be subject.
- (3) An approval granted before the commencement day under clause 731 of the Existing Safety Requirements (including any condition to which the approval is subject) may be amended by the regulator at any time by notice in writing given to the holder of the approval.

#### **50 Decommissioning a well or suspending a well**

- (1) This clause applies to the high risk activities of decommissioning a well or suspending a well if an application for approval to carry out the activity has been made under clause 521 of the Existing Safety Requirements before the commencement day and that application has not been refused before that day.
- (2) Clause 33 of this Regulation applies to the activity subject to the following:
- (a) the making of the application is taken to satisfy the requirement to give notice to the regulator,
  - (b) the waiting period for the activity:
    - (i) is taken to have elapsed if approval was granted before the commencement day, or
    - (ii) is taken to have commenced on the commencement day in any other case,
  - (c) the manner of carrying out the activity is the manner specified in the application, subject to any conditions to which the approval may be subject.
- (3) An approval granted before the commencement day under clause 521 of the Existing Safety Requirements (including any condition to which the approval is subject) may be amended by the regulator at any time by notice in writing given to the holder of the approval.

### **Division 4 Miscellaneous**

#### **51 Appointment of operator**

- (1) A person who, before the commencement day, has been nominated as the operator of an existing petroleum site in accordance with clause 202 of the Existing Safety Requirements and who continued to be the operator until immediately before the commencement day, is taken, on the commencement day, to have been appointed as the operator of the petroleum site in accordance with this Regulation.
- (2) The regulator is not required to be notified of any such appointment.
- (3) A person who is taken to be the operator of a petroleum site because of this clause can be removed from that position in the same way as a person who is appointed as an operator by the petroleum site holder under this Regulation.

**52 Duty to notify regulator of certain incidents**

Clause 128 of this Regulation does not extend to an incident arising out of the carrying out of petroleum operations at an existing petroleum site if the incident occurred before the commencement day.

**53 References to Dams Safety Act 2015**

A reference in this Regulation to the *Dams Safety Act 2015* includes a reference to the *Dams Safety Act 1978*.

## **Schedule 2      Amendment of Work Health and Safety Regulation 2011**

**[1]    Clause 289 Meaning of “construction work”**

Omit clause 289 (3) (e). Insert instead:

- (e)    mining activities or petroleum activities.

**[2]    Clause 530 This Chapter does not apply to certain facilities**

Omit clause 530 (2) (e). Insert instead:

- (e)    a mine or a petroleum site.

**[3]    Clause 702 Confidentiality of information—exception relating to administration or enforcement of other laws**

Insert after clause 702 (d):

- (d1)    *Dams Safety Act 2015,*

**[4]    Clause 702 (h1)**

Insert after clause 702 (h):

- (h1)    *Law Enforcement (Powers and Responsibilities) Act 2002,*

**[5]    Clause 702 (j)–(k1)**

Omit clause 702 (j). Insert instead:

- (j)    *Mine Subsidence Compensation Act 1961,*
- (k)    *Mining Act 1992,*
- (k1)    *National Vocational Education and Training Regulator Act 2011* of the Commonwealth,

**[6]    Clause 702 (m1)**

Insert after clause 702 (m):

- (m1)    *Petroleum (Onshore) Act 1991,*

**[7]    Clause 702 (p1)–(p3)**

Insert after clause 702 (p):

- (p1)    *State Emergency and Rescue Management Act 1989,*
- (p2)    *Surveying and Spatial Information Act 2002,*
- (p3)    *Water Act 1912,*

**[8]    Clause 703 Regulatory action where either SafeWork NSW or mines regulator is the regulator**

Omit the clause.