



New South Wales

Work Health and Safety (Mines and Petroleum Sites) Amendment Regulation 2024

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under—

- (a) the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*, and
- (b) the *Work Health and Safety Act 2011*.

COURTNEY HOUSSOS, MLC
Minister for Natural Resources

Explanatory note

The objects of this regulation are to—

- (a) require the holders of a practising certificate to comply with the maintenance of competency requirements published in the Gazette and to keep records of the compliance, and
- (b) prescribe activities to which the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (***the Act***) does not apply, and
- (c) update a reference to the *Work Health and Safety Act 2011*.

This regulation is made under the following provisions—

- (a) the Act, including sections 7(2) and 11(1)(i), which may be Henry VIII provisions because the provisions enable the regulations to impliedly amend the Act by affecting the application of the Act,
- (b) the *Work Health and Safety Act 2011*, including section 276, the general regulation-making power, and Schedule 3, clause 7(1)(g).

Work Health and Safety (Mines and Petroleum Sites) Amendment Regulation 2024

1 Name of regulation

This regulation is the *Work Health and Safety (Mines and Petroleum Sites) Amendment Regulation 2024*.

2 Commencement

This regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Work Health and Safety (Mines and Petroleum Sites) Regulation 2022

[1] Section 142 Conditions of practising certificates

Insert after section 142(2)—

- (2A) It is a condition of a practising certificate that the holder of the certificate must comply with the maintenance of competency requirements for the practising certificate, as notified by the regulator by order published in the Gazette.

[2] Section 142(3)

Omit the subsection. Insert instead—

- (3) It is a condition of a practising certificate that the holder of the certificate must keep records that demonstrate the following—
- (a) the individual's eligibility to hold the certificate, including—
 - (i) evidence of the individual's completion of courses or other training the individual is required to complete to be eligible for, or under a condition of, the practising certificate, and
 - (ii) time sheets relating to the individual's undertaking of the courses or other training,
 - (b) the individual's compliance with the maintenance of competency requirements for the practising certificate.

[3] Section 142(7)

Insert after section 142(6)—

- (7) In this section—
maintenance of competency requirements, for a practising certificate, means the maintenance of competency requirements that apply, from time to time, to the statutory function for which the practising certificate is granted.

[4] Section 182A

Insert after section 182—

182A Activities to which WHS (MPS) Act does not apply—the WHS (MPS) Act, ss 7(2) and 11(1)(i)

- (1) An activity is not a mining operation for the purposes of the WHS (MPS) Act if the activity is carried out—
- (a) by or for the Secretary of the Department, and
 - (b) for the rehabilitation of land, and
 - (c) as part of a project specified by the Minister by order published in the Gazette.
- (2) In this section—
rehabilitation has the same meaning as in the *Mining Act 1992*.

[5] Section 188, heading

Omit “cl 2”. Insert instead “cl 3”.