

Act 1994 No. 13

MINES RESCUE BILL 1993*

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:

- (a) to provide for a rescue service capable of responding to, and dealing with, emergencies arising at underground coal mines in New South Wales; and
- (b) to enable that rescue service to be used in connection with emergencies at other mines.

The Bill, which replaces the Mines Rescue Act 1925:

- reconstitutes the Mines Rescue Board;
- provides for the management of the Board's affairs;
- provides for the staff of the Board;
- provides for the financing of the Board's activities;
- establishes the New South Wales Mines Rescue Brigade; and
- deals with miscellaneous related matters.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a proclaimed day or on different proclaimed days.

Clause 3 sets out the objects of the proposed Act as outlined above.

Clause 4 defines certain expressions that are used in the proposed Act. Among the expressions defined are "Board" (the Mines Rescue Board of New South Wales), "Brigade" (New South Wales Mines Rescue Brigade), "emergency", "Fund" (the

* Amended in committee—see table at end of volume.

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Mines Rescue Fund), “mine”, “mining”, “owner” (in relation to a mine) and “underground coal mine”.

PART 2—MINES RESCUE BOARD OF NEW SOUTH WALES

Division 1—Constitution of Board

Clause 5 constitutes, as a statutory body representing the Crown, the Mines Rescue Board of New South Wales.

Division 2—Functions of Board

Clause 6 states the principal functions of the Board in connection with underground coal mines. The principal functions are:

- making available rescue services and facilities for use at underground coal mines in New South Wales (including ensuring that members of the Mines Rescue Brigade have the capacity to deal with emergencies at those mines);
- ensuring that adequate rescue equipment (such as breathing apparatus) is available to enable members of the Brigade to deal with any emergency in an underground coal mine;
- training members of the Mines Rescue Brigade in mine rescue procedures and, in particular, in the use of breathing apparatus;
- ensuring that persons with an adequate knowledge of mine rescue work are available to provide technical advice to the owners of underground coal mines if an emergency should arise at any of those mines.

Clause 7 states other discretionary functions of the Board in connection with other mines. The functions are:

- making available rescue services and facilities for use at those mines;
- providing training courses in relation to mine safety and procedures for responding to emergencies occurring at those mines.

Clause 8 states other discretionary functions of the Board in connection with non-rescue matters. The functions are:

- providing occupational health and safety services (including training services) to employers of mineworkers and others;
- providing technical and advisory services to owners of mines and others.

Clause 9 confers on the Board certain functions that are ancillary to its principal functions. Among those functions are the power to enter into contracts and the power to appoint agents.

Division 3—Management of Board

Clause 10 provides for the directors of the Board. There are to be 9 directors. They are to comprise:

- the Chief Inspector of Coal Mines;
- 3 persons nominated by the New South Wales Coal Association to represent the interests of mine owners;

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- 3 persons representing mine employees;
- a person nominated by the New South Wales Mine Managers' Association; and
- a person who has a financial, technical, legal or some other appropriate professional qualification.

Clause 11 provides for the affairs of the Board to be managed and controlled by its directors. It further provides that any act, matter or thing done in the name of, or on behalf of, the Board by its directors or on their directions or with their authority is to be taken to have been done by the Board.

Clause 12 provides for the appointment of a chief executive of the Board. The directors are to be given an opportunity to recommend a person or persons for appointment to that position.

Clause 13 provides for the chief executive to manage the Board's affairs in accordance with the policies decided by the directors.

Clause 14 deals with Ministerial control of the Board. Under the clause:

- a direction given by the Minister will have to be in writing;
- the directors will be able to request the Minister to review the direction if the Board would incur a significant financial loss;
- the Minister will be able to confirm the direction following the review only if the Minister, with the approval of the Treasurer, agrees to reimburse the Board from public revenue for the estimated loss incurred by the Board in complying with the direction.

Clause 15 requires the Board to provide the Minister with relevant information relating to its activities.

Clause 16 requires the Board to prepare annually a corporate plan. The plan is to specify the objectives of the Board, the policies of the Board necessary to attain those objectives and criteria that will enable the Board's performance to be assessed. In preparing the plan, the Board will be required to take into account any comments that the Minister may make on the draft plan. The Board will be required as far as practicable to exercise its functions in accordance with the plan.

Clause 17 enables the Board to establish subcommittees to assist the Board in connection with the exercise of any of its functions.

Clause 18 authorises the Board to delegate its functions (except the power of delegation).

Clause 19 exculpates from personal liability the directors and the chief executive and persons duly acting under the direction of the Board for any matter or thing done in good faith in the execution of official duties.

Clause 20 provides for the service of documents on the Board.

Clause 21 makes provision for the custody of the Board's seal.

PART 3—STAFF

Clause 22 authorises the Board to employ necessary staff. Staff will not be employed under Part 2 of the Public Sector Management Act 1988.

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Clause 23 authorises the Board to determine the salaries, wages and conditions of its staff (subject to any other Act or law).

Clause 24 authorises regulations to be made with respect to the employment of the Board's staff. The regulations are to be subject to any industrial award or agreement made in connection with conditions of employment.

Clause 25 authorises the Board to arrange for the use of staff and facilities of other Government Departments and of public or local authorities,

Clause 26 enables the Board to engage consultants.

Clause 27 provides for the establishment of one or more staff superannuation schemes.

PART 4—FINANCE

Clause 28 provides for the establishment of the Mines Rescue Fund under the control of the Board.

Clause 29 provides for the payment into the Fund of government grants, revenue and other money of the Board.

Clause 30 provides for the payment from the Fund of all payments required to be made by the Board.

Clause 31 requires the owners of coal mines to make contributions of amounts prescribed by the regulations to enable the Board to carry out its principal functions. The clause sets out the matters to be taken into account for the purposes of prescribing the relevant contribution for each coal mine. It will be possible for the Board to require payment of interest of up to 15% per annum on contributions that are not paid on time.

Clause 32 authorises the Board to charge fees for rescue and other services (other than its principal functions with respect to coal mines).

Clause 33 authorises the Board to recover, waive or refund any contribution, interest, fee or other money owing to it.

Clause 34 authorises the Board to invest money.

Clause 35 relates to banking arrangements.

Clause 36 provides for the financial year of the Board to begin on 1 July except for the first financial year which will begin on the commencement of the clause and end on 30 June 1994.

PART 5—NEW SOUTH WALES MINES RESCUE BRIGADE

Clause 37 provides for the establishment of the New South Wales Mines Rescue Brigade.

Clause 38 provides that the principal function of the Brigade is to undertake rescue work at underground coal mines and at other mines.

Clause 39 provides for the composition of the Brigade. The Brigade will comprise mine personnel made available to the Board and others appointed by the Board.

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Clause 40 requires the Board, in the case of an underground coal mine, to determine the number of mine personnel to be made available to the Board and the number of items, and the kinds, of rescue apparatus and equipment and the storage facilities to be provided at the mine. Provision is also made for the variation of such a determination. Failure to comply with a determination, or a determination as varied, will render the owner of the mine liable to a penalty not exceeding 100 penalty units (\$10,000).

Clause 41 confers on the owner of a mine a right of appeal to the Minister against a determination, or a variation of a determination, served on that owner under proposed section 40.

Clause 42 provides for the appointment and termination of appointment of members of the Mines Rescue Brigade. A person's services will only be made available to the Board for mine rescue purposes with the person's consent.

Clause 43 provides for the Board to be responsible for training members of the Brigade.

Clause 44 requires the person in charge of a mine rescue station to report to the Chief Inspector of Coal Mines and to the Board accidents and incidents occurring at the station which result in death or serious injury or which involve the malfunctioning of mine rescue equipment.

Clause 45 provides for the issue of certificates to members of the Brigade on completion of their training and for the issue of medallions in recognition of members' service.

PART 6—MISCELLANEOUS

Clause 46 empowers the Minister to acquire land by compulsory process for the purposes of the proposed Act.

Clause 47 provides for the proposed Act to bind the Crown.

Clause 48 ensures that the State Emergency and Rescue Management Act 1989 prevails over the proposed Act.

Clause 49 provides that offences against the proposed Act or any regulations made under that Act are to be dealt with in a summary manner by a Local Court.

Clause 50 empowers regulations to be made for the purposes of the proposed Act.

Clause 51 requires the Minister, 5 years after the commencement of the proposed Act, to conduct a review of the Act to ascertain whether its policy objectives remain valid and whether the provisions of the Act remain appropriate for attaining those objectives.

Clause 52 repeals the Mines Rescue Act 1925 and the Mines Rescue Regulation 1991.

Clause 53 is a formal provision that gives effect to the savings, transitional and other provisions in Schedule 3.

Clause 54 is a formal provision that gives effect to the amendments to other Acts set out in Schedule 4.

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Schedule 1 contains provisions relating to the directors of the Board (including the procedure at meetings of the directors of the Board).

Schedule 2 contains provisions relating to the chief executive of the Board.

Schedule 3 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 4 contains consequential amendments to other Acts.
