



New South Wales

# Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Bill 2015

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Bill 2015*.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to regulate work health and safety at workplaces at which petroleum operations occur (**petroleum sites**) under the *Work Health and Safety (Mines) Act 2013* (the **principal Act**) rather than under the *Petroleum (Onshore) Act 1991* and to make the work health and safety regime at petroleum sites consistent with the work health and safety regime at mines,
- (b) to clarify and simplify the interaction between the principal Act and the *Work Health and Safety Act 2011* and to provide that officials under each of those Acts can exercise functions at any workplace,
- (c) to exclude certain activities from the principal Act,
- (d) to provide that geothermal energy is to be treated as if it were petroleum for the purposes of the principal Act,
- (e) to permit consultants to be appointed as government officials for the purposes of the principal Act,
- (f) to make further provision with respect to notifiable incidents,
- (g) to permit the regulator to specify where documents are to be served for the purposes of the principal Act,

- (h) to make consequential and related amendments to other Acts and instruments,
- (i) to make statute law revision amendments.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Work Health and Safety (Mines) Act 2013 No 54

**Schedule 1 [2]** renames the principal Act as the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*. **Schedule 1 [6]** makes a consequential amendment.

**Schedule 1 [1], [3]–[5], [7], [9], [15], [16], [19], [20], [23], [24], [26], [37], [39]–[50] and [52]–[58]** apply provisions of the principal Act to petroleum sites consistently with how those provisions currently apply to mines. **Schedule 1 [11]** makes a consequential amendment.

**Schedule 1 [8]** updates certain definitions used in the principal Act and adds a number of new definitions including *petroleum site* and *petroleum site holder*. Petroleum site means a workplace at which petroleum operations are carried out and petroleum site holder means the person who is conducting a business or undertaking with control over a petroleum title (under the *Petroleum (Onshore) Act 1991*) that permits petroleum operations to be carried out at the petroleum site or if there is no such person, the person who is conducting the business or undertaking carrying out petroleum operations at the petroleum site. **Schedule 1 [12]** inserts proposed sections 7B and 7C into the principal Act. Proposed section 7B sets out what is meant by *petroleum operations* and *petroleum activities*. Petroleum activities are activities carried out for the purpose of extracting petroleum from, or injecting petroleum into, the ground or exploring for petroleum. Petroleum operations includes petroleum activities and associated activities such as constructing a site for petroleum activities or decommissioning a site or activities carried out in connection with petroleum activities at a local site such as processing and storing extracted material and educational or tourist activities. Proposed section 7C sets out what is meant by *petroleum site operator*. A petroleum site operator means the petroleum site holder or a person appointed by the petroleum site holder.

**Schedule 1 [10]** substitutes provisions that defined *mine*, *mining operations* and *mining activities* for the purposes of the principal Act to simplify those definitions and to make them consistent with the new (and equivalent) definitions of *petroleum site*, *petroleum operations* and *petroleum activities*. The revised definition of *mining operations* also permits the regulations to modify the activities that are mining operations and create exceptions to or otherwise limit the operation of the proposed section.

**Schedule 1 [13] and [14]** provide that geothermal energy is taken to be petroleum rather than a mineral which means that a site at which exploration for, or extraction of, geothermal energy occurs will be taken to be a petroleum site rather than a mine.

**Schedule 1 [18]** provides that the principal Act does not apply to a petroleum site in the adjacent area in respect of the State (which is generally that part of the territorial sea of Australia that is within 3 nautical miles of the coast of the State including the coast of any island forming part of the State). **Schedule 1 [17]** makes a consequential amendment.

**Schedule 1 [21]** provides that certain activities are not mining operations or petroleum operations for the purposes of the principal Act.

**Schedule 1 [22]** inserts proposed section 12A into the principal Act. The proposed section identifies officials under the *Work Health and Safety Act 2011* (the *WHS Act*), which are the regulator (the *WHS regulator*) and inspectors under that Act, and officials under the principal Act,

which are the regulator (the *mining and petroleum regulator*) and government officials. The proposed section provides that those officials may exercise their functions at any workplace regardless of whether the workplace is a mine, a petroleum site or any other workplace. The proposed section also provides that the mining and petroleum regulator has all the functions of the WHS regulator and vice versa and that a government official has all the functions of an inspector and vice versa.

**Schedule 1 [25]** provides that if the requirement to give immediate notice to the regulator about a notifiable incident is met by giving the notice by telephone, written notice is required to be given to the regulator within 48 hours after the notice by telephone.

**Schedule 1 [29]** modifies the requirement that the site at which a notifiable incident occurred must not be disturbed until an inspector arrives at the site. The proposed amendment allows any government official (rather than an inspector as is currently the case) to direct that the site can be disturbed before an inspector arrives. **Schedule 1 [33]** makes consequential amendments.

**Schedule 1 [34]** inserts a definition of *incident site* in section 17 (Duty to preserve incident sites) of the principal Act. The definition is inserted to clarify any potential ambiguity around the word “site” that may be caused because the section is to now apply to petroleum sites. **Schedule 1 [27], [28] and [30]–[32]** make consequential amendments.

**Schedule 1 [35]** permits a consultant engaged by a public authority to be appointed as a government official for the purposes of the principal Act. **Schedule 1 [38]** provides that the instrument appointing any such consultant is taken to be the consultant’s identity card as a government official.

**Schedule 1 [36]** provides that a government official is deemed to be an inspector for the purposes of the WHS Act.

**Schedule 1 [51]** permits the regulator, by order published in the Gazette, to specify a person, place or address for the service of documents under the principal Act.

**Schedule 1 [59] and [60]** are consequential on the amendments made by Schedule 3.

**Schedule 1 [61]** inserts transitional provisions in relation to notifiable incidents that occur at petroleum sites and in relation to notices under section 129 of the *Petroleum (Onshore) Act 1991*.

## **Schedule 2      Amendment of Work Health and Safety Act 2011 No 10**

**Schedule 2 [5]** omits provisions of the *Work Health and Safety Act 2011* dealing with the functions of inspectors. Those provisions are made redundant by proposed section 12A of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* to be inserted by Schedule 1. **Schedule 2 [1], [2] and [4]** make consequential amendments.

**Schedule 2 [3]** updates references to the renamed *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

**Schedule 2 [7]** omits provisions dealing with the functions of regulators that are made redundant by proposed section 12A of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*. **Schedule 2 [8]** provides that the definition of *regulator* set out in Schedule 2 to the *Work Health and Safety Act 2011* does not limit proposed section 12A.

**Schedule 2 [6]** updates the definition of *regulator* to take account of the renaming of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the application of that Act to petroleum.

### **Schedule 3      Amendment of Mine Safety (Cost Recovery) Act 2005 No 116**

**Schedule 3** updates provisions of the *Mine Safety (Cost Recovery) Act 2005* to extend the application of that Act in respect of petroleum sites in the same way as that Act applies in respect of mines.

### **Schedule 4      Consequential amendment of other Acts and instruments**

**Schedule 4** omits provisions from the *Petroleum (Onshore) Act 1991* that provide for safe work practices in relation to petroleum operations and the giving of notices where an inspector finds a matter, thing or practice to be dangerous or defective as these matters are now to be dealt with under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*. The Schedule also makes amendments to a number of other Acts and instruments consequential on that amendment and on the amendments made by Schedules 1–3.



New South Wales

# Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Bill 2015

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New South Wales

# Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Bill 2015

No. , 2015

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## A Bill for

An Act to amend the *Work Health and Safety (Mines) Act 2013* to extend that Act to work health and safety at petroleum sites; to clarify how that Act interacts with the *Work Health and Safety Act 2011*; to make related and consequential amendments to other Acts; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Act 2015</i> .	3
	4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6

<b>Schedule 1</b>	<b>Amendment of Work Health and Safety (Mines) Act 2013 No 54</b>	1
		2
<b>[1] Long title</b>		3
	Insert “and petroleum sites” after “mines”.	4
<b>[2] Section 1 Name of Act</b>		5
	Insert “ <i>and Petroleum Sites</i> ” after “ <i>Mines</i> ”.	6
<b>[3] Section 3 Objects of Act</b>		7
	Omit “mines,” from section 3 (a). Insert instead “mines and petroleum sites.”	8
<b>[4] Section 3 (a)</b>		9
	Omit “mines or”. Insert instead “mines, petroleum sites or”.	10
<b>[5] Section 3 (b)–(d)</b>		11
	Insert “and petroleum sites” after “mines” wherever occurring.	12
<b>[6] Section 4 Relationship with WHS Act</b>		13
	Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring in section 4 (2) (b), (c) and (d) and the note.	14
	Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	15
<b>[7] Section 5 Definitions</b>		17
	Insert “and Petroleum” after “Mining” in the definition of <b>Board</b> in section 5 (1).	18
<b>[8] Section 5 (1)</b>		19
	Omit the definitions of <b>Department</b> and <b>mine holder</b> .	20
	Insert in alphabetical order:	21
	<b>Department</b> means the Department of Industry, Skills and Regional Development.	22
	<b>local site</b> in relation to mining activities or petroleum activities means:	23
	(a) the site at which those activities are carried out, or	24
	(b) a site that adjoins, or is in the vicinity of, the site at which those activities are carried out.	25
	<b>mine holder</b> of a mine (other than a tourist mine) means:	26
	(a) the person who is conducting a business or undertaking with control over a right or entitlement to carry out mining operations at the mine, or	27
	(b) if there is no such person, the person conducting the business or undertaking that is carrying out mining operations at the mine.	28
	<b>mine holder</b> of a tourist mine means the person who is conducting the business or undertaking of the tourist mine.	29
	<b>mineral exploration site</b> means a place where activities are carried out for the purpose of exploring for minerals by mechanical means that disturb the ground.	30
	<b>mineral extraction site</b> means a place where activities are carried out for the purpose of extracting minerals from the ground or injecting minerals into the ground.	31
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<i>petroleum</i> means:	1
(a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state, or	2 3
(b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state, or	4 5
(c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium, carbon dioxide and water,	6 7 8 9
and includes any substance referred to in paragraph (a), (b) or (c) that has been returned to a natural reservoir, but does not include a mineral.	10 11
<i>petroleum activities</i> and <i>petroleum operations</i> —see section 7B.	12
<i>petroleum exploration site</i> means a place where activities are carried out for the purpose of exploring for petroleum by mechanical means that disturb the ground.	13 14 15
<i>petroleum extraction site</i> means a place where activities are carried out for the purpose of extracting petroleum from the ground or injecting petroleum into the ground.	16 17 18
<i>petroleum site</i> means a workplace at which petroleum operations are carried out and includes any fixtures, fittings, plant or structures at the workplace that are used or were formerly used for petroleum operations.	19 20 21
<i>petroleum site holder</i> of a petroleum site is:	22
(a) the person who is conducting a business or undertaking with control over a petroleum title that permits petroleum operations to be carried out at the petroleum site, or	23 24 25
(b) if there is no such person, the person who is conducting the business or undertaking carrying out petroleum operations at the petroleum site.	26 27
<i>petroleum site operator</i> —see section 7C.	28
<i>petroleum title</i> has the same meaning as in the <i>Petroleum (Onshore) Act 1991</i> .	29
<b>[9] Section 5 (2)</b>	30
Omit the subsection. Insert instead:	31
(2) To avoid doubt, a reference in this Act to:	32
(a) a person conducting a business or undertaking at a mine includes a reference to the mine operator or mine holder of the mine, or	33 34
(b) a person conducting a business or undertaking at a petroleum site includes a reference to the petroleum site operator or petroleum site holder of the petroleum site.	35 36 37
<b>[10] Sections 6 and 7</b>	38
Omit the sections. Insert instead:	39
<b>6 Meaning of “mine”</b>	40
(1) In this Act, a <i>mine</i> is a place that is a workplace at which mining operations are carried out and it includes any fixtures, fittings, plant or structures at the place that are used or were formerly used for mining operations.	41 42 43

(2)	In this Act, a <i>tourist mine</i> means a mine:	1
(a)	at which no mining operations are carried out other than educational activities or tourist activities carried out in connection with former mining activities at the mine, and	2 3 4
(b)	at which there is a hazard prescribed by the regulations that was present at the mine when former mining activities were carried out.	5 6
<b>7</b>	<b>Meaning of “mining operations” and “mining activities”</b>	7
(1)	In this Act, <i>mining operations</i> means the following:	8
(a)	activities (referred to in this Act as <i>mining activities</i> ) carried out for the purpose of:	9 10
(i)	extracting minerals from the ground, or	11
(ii)	injecting minerals into the ground, but only where the primary purpose of the injection is to inject a mineral into the ground or to return a mineral to the ground, or	12 13 14
(iii)	exploring for minerals,	15
(b)	activities (including the handling, preparing, processing or storing of extracted materials) carried out in connection with mining activities at a local site,	16 17 18
(c)	activities associated with constructing a site where a mining activity (or an activity referred to in paragraph (b)) is, or is to be, carried out,	19 20
(d)	activities associated with decommissioning, making safe or closure of a mineral extraction site or a mineral exploration site,	21 22
(e)	educational activities or tourist activities carried out in connection with:	23
(i)	mining activities at a local site, or	24
(ii)	former mining activities at the site at which those activities were carried out,	25 26
(f)	activities prescribed by the regulations,	27
(g)	an activity specified by the Minister, by order published in the Gazette, that is carried on at a place identified in the order.	28 29
(2)	The regulations may declare an activity not to be mining operations for the purposes of this Act.	30 31
(3)	The regulations may create exceptions to or otherwise limit the operation of this section.	32 33
<b>[11]</b>	<b>Section 7A Meaning of “mine operator”</b>	34
	Omit “operator” from section 7A (3). Insert instead “mine operator”.	35
<b>[12]</b>	<b>Sections 7B and 7C</b>	36
	Insert after section 7A:	37
<b>7B</b>	<b>Meaning of “petroleum operations” and “petroleum activities”</b>	38
(1)	In this Act, <i>petroleum operations</i> means the following:	39
(a)	activities (referred to in this Act as <i>petroleum activities</i> ) carried out for the purpose of:	40 41
(i)	extracting petroleum from the ground, or	42

(ii)	injecting petroleum into the ground, but only where the primary purpose of the injection is to inject petroleum into the ground or to return petroleum to the ground, or	1 2 3
(iii)	exploring for petroleum,	4
(b)	activities (including the handling, preparing, processing or storing of extracted materials) carried out in connection with petroleum activities at a local site,	5 6 7
(c)	activities associated with constructing a site where a petroleum activity (or an activity referred to in paragraph (b)) is, or is to be, carried out,	8 9
(d)	activities associated with decommissioning, making safe or closure of a petroleum extraction site or a petroleum exploration site,	10 11
(e)	educational activities or tourist activities carried out in connection with petroleum activities at a local site,	12 13
(f)	activities prescribed by the regulations,	14
(g)	an activity specified by the Minister, by order published in the Gazette, that is carried on at a place identified in the order.	15 16
(2)	The regulations may declare an activity not to be petroleum operations for the purposes of this Act.	17 18
(3)	The regulations may create exceptions to or otherwise limit the operation of this section.	19 20
<b>7C</b>	<b>Meaning of “petroleum site operator”</b>	21
(1)	In this Act: <i>petroleum site operator</i> of a petroleum site means:	22 23
(a)	the petroleum site holder, or	24
(b)	if the petroleum site holder has appointed, in accordance with the regulations, another person to be the petroleum site operator, that other person.	25 26 27
(2)	The regulations may provide for the appointment of more than one petroleum site operator for a petroleum site (so that there are different petroleum site operators for different parts of a petroleum site) and for that purpose:	28 29 30
(a)	a reference in this Act or the regulations to the petroleum site operator of a petroleum site includes a reference to the petroleum site operator of part of a petroleum site, and	31 32 33
(b)	the functions of a petroleum site operator of a petroleum site are, in the case of a petroleum site operator of part of a petroleum site, functions in respect of that part of the petroleum site.	34 35 36
(3)	The regulations may provide for the appointment of one person as the petroleum site operator for more than one petroleum site. In such a case all of the relevant petroleum sites are, for the purposes of this Act, to be treated as one petroleum site.	37 38 39 40
<b>[13]</b>	<b>Section 8 Geothermal energy</b>	41
	Omit “a mineral”. Insert instead “petroleum”.	42
<b>[14]</b>	<b>Section 8, note</b>	43
	Omit “mining”. Insert instead “petroleum”.	44

<b>[15] Section 10 Places to which Act does or does not apply</b>	1
Insert “or petroleum sites” after “mines” in section 10 (1).	2
<b>[16] Section 10 (2) (a) and (b)</b>	3
Insert “, petroleum site” after “mine” wherever occurring.	4
<b>[17] Section 10 (2) (b)</b>	5
Omit “Gazette.”. Insert instead “Gazette, or”.	6
<b>[18] Section 10 (2) (c)</b>	7
Insert after section 10 (2) (b):	8
(c) a petroleum site in the adjacent area in respect of the State within the meaning of Part 10 of the <i>Interpretation Act 1987</i> .	9 10
<b>[19] Section 11 Activities to which Act does or does not apply</b>	11
Insert “or petroleum operations” after “mining operations” in section 11 (1).	12
<b>[20] Section 11 (1) (a) and (c)</b>	13
Insert “or petroleum” after “minerals” wherever occurring.	14
<b>[21] Section 11 (1) (h) and (i)</b>	15
Insert after section 11 (1) (g):	16
(h) an activity carried out in relation to the extraction of geothermal energy from a source that has a temperature of less than 70 degrees Celsius or that is situated less than one kilometre below the surface of the earth,	17 18 19
(i) any activity prescribed by the regulations.	20
<b>[22] Section 12A</b>	21
Insert after section 12:	22
<b>12A Exercise of functions by regulators and other officials</b>	23
(1) An official may exercise any function of the official in relation to any workplace regardless of whether the workplace is a mine, a petroleum site or any other workplace.	24 25 26
(2) The functions of an official include:	27
(a) in relation to the mining and petroleum regulator, the functions of the WHS regulator, and	28 29
(b) in relation to the WHS regulator, the functions of the mining and petroleum regulator, and	30 31
(c) in relation to a government official, the functions of an inspector, and	32
(d) in relation to an inspector, the functions of a government official.	33
(3) Any requirement in the WHS laws that an official produce an identity card in relation to the exercise of a function is satisfied if the official produces an identity card issued (or taken to be issued) to the official under any provision of the WHS laws.	34 35 36 37
(4) In this section:	38
<i>inspector</i> means an inspector appointed under section 156 of the WHS Act.	39

	<i>mining and petroleum regulator</i> means the regulator within the meaning of this Act.	1
		2
	<i>official</i> means the WHS regulator, the mining and petroleum regulator, a government official or an inspector.	3
		4
	<i>WHS regulator</i> means SafeWork NSW as referred to in clause 1 of Schedule 2 to the WHS Act.	5
		6
	<b>Note.</b> Clause 1 of Schedule 2 to the WHS Act provides that (for the purposes of the WHS laws) a reference to the regulator in relation to a mine or petroleum site (or a workplace at which activities under the <i>Petroleum (Offshore) Act 1982</i> are carried out) means the mining and petroleum regulator and a reference to the regulator in relation to any other workplace means the WHS regulator. However, that clause does not limit this section which permits either regulator to exercise any function of either regulator in relation to any workplace.	7
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<b>[23]</b>	<b>Section 15 Duty to notify of notifiable incidents</b>	14
	Insert after section 15 (1):	15
	(1A) A petroleum site operator of a petroleum site must ensure that the regulator is notified immediately after becoming aware that a notifiable incident arising out of the conduct of any business or undertaking at the petroleum site has occurred.	16
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		19
	Maximum penalty:	20
	(a) in the case of an individual—\$10,000, or	21
	(b) in the case of a body corporate—\$50,000.	22
<b>[24]</b>	<b>Section 15 (2)</b>	23
	Insert “or petroleum site” after “mine” wherever occurring.	24
<b>[25]</b>	<b>Section 15 (5) (b)</b>	25
	Omit “of that requirement being made”. Insert instead “of giving the notice by telephone”.	26
<b>[26]</b>	<b>Section 17 Duty to preserve incident sites</b>	27
	Insert “or petroleum site” after “mine” in section 17 (1).	28
<b>[27]</b>	<b>Section 17 (1)</b>	29
	Omit “the site where the incident occurred”. Insert instead “the incident site”.	30
<b>[28]</b>	<b>Section 17 (1)</b>	31
	Omit “at the site”. Insert instead “at the incident site”.	32
<b>[29]</b>	<b>Section 17 (1)</b>	33
	Omit “an inspector directs”. Insert instead “a government official directs”.	34
<b>[30]</b>	<b>Section 17 (1) (b)</b>	35
	Omit the paragraph. Insert instead:	36
	(b) each person with management or control of the incident site.	37
<b>[31]</b>	<b>Section 17 (2)</b>	38
	Omit the subsection.	39
<b>[32]</b>	<b>Section 17 (3) (c)</b>	40
	Omit “the site”. Insert instead “the incident site”.	41

<b>[33] Section 17 (4)</b>	1
Omit “An inspector” and “the inspector”.	2
Insert instead “A Government official” and “the Government official”, respectively.	3
<b>[34] Section 17 (5)</b>	4
Insert after section 17 (4):	5
(5) In this section:	6
<i>incident site</i> means the workplace (or part of the workplace) at which the notifiable incident occurred and includes any plant, substance, structure or thing associated with the notifiable incident.	7
	8
	9
<b>[35] Section 18 Appointment by regulator</b>	10
Omit “an investigator” from section 18 (4). Insert instead “a government official”.	11
<b>[36] Section 18 (8)</b>	12
Insert after section 18 (7):	13
(8) A person who is a government official is deemed to be an inspector for the purposes of the WHS Act.	14
	15
<b>[37] Section 19 Qualifications of inspectors</b>	16
Insert “or petroleum operations” after “mining operations” in section 19 (a).	17
<b>[38] Section 21 Identity cards</b>	18
Omit section 21 (3). Insert instead:	19
(3) A copy of the instrument of appointment of a person as a government official under section 18 (4) is taken to be the government official’s identity card for the purposes of the WHS laws.	20
	21
	22
<b>[39] Section 23 Notifying mine operator or petroleum site operator of concerns</b>	23
Insert “or petroleum site operator” after “mine operator”.	24
<b>[40] Section 23</b>	25
Insert “or petroleum site” after “the mine” wherever occurring.	26
<b>[41] Section 51 Regulator may make stop work orders</b>	27
Insert “or petroleum site” after “a mine” in section 51 (1).	28
<b>[42] Section 51 (7)</b>	29
Omit the subsection. Insert instead:	30
(7) The person conducting the business or undertaking must give a copy of the stop work order to the relevant mine operator or petroleum site operator (unless that person is the mine operator or petroleum site operator).	31
	32
	33
<b>[43] Section 56 Boards of Inquiry</b>	34
Insert “or petroleum site” after “a mine” in section 56 (1) (b).	35
<b>[44] Part 8, Division 2, heading</b>	36
Insert “and Petroleum” after “Mining”.	37

<b>[45] Section 63 Constitution of Mining and Petroleum Competence Board</b>	1
Insert “and Petroleum” after “Mining” in section 63 (1).	2
<b>[46] Section 65 Membership of Board</b>	3
Insert after section 65 (1) (b):	4
(b1) such number of persons as the Minister determines, selected in accordance with the regulations, to represent the interests of employers in the petroleum industry,	5 6 7
<b>[47] Section 65 (1) (c1)</b>	8
Insert after section 65 (1) (c):	9
(c1) such number of persons as the Minister determines, selected in accordance with the regulations, to represent the interests of workers in the petroleum industry,	10 11 12
<b>[48] Section 65 (1) (d)</b>	13
Insert “or petroleum sites” after “mines”.	14
<b>[49] Section 67 Functions of Board</b>	15
Insert “or petroleum site” after “a mine” in section 67 (1) (a).	16
<b>[50] Section 69 Service of documents</b>	17
Omit section 69 (2) (a). Insert instead:	18
(a) the petroleum site operator of a petroleum site, may also be served by leaving it with a worker at the petroleum site, or	19 20
<b>[51] Section 69 (2A)</b>	21
Insert after section 69 (2):	22
(2A) If the regulator has specified, by order published in the Gazette, a person, place or address (including an email address) for the service of any document that is authorised or required by this Act or the regulations to be served on the regulator, the document may be served only by delivering it to that person, place or address.	23 24 25 26 27
<b>[52] Section 70 Publication of information by regulator</b>	28
Insert “petroleum site operators,” after “mine operators,” in section 70 (1) (d).	29
<b>[53] Section 72 Mining and petroleum codes of practice</b>	30
Omit “or mining operations” from section 72 (1).	31
Insert instead “, mining operations, petroleum sites or petroleum operations”.	32
<b>[54] Section 72 (2)</b>	33
Omit “or mining operations”.	34
Insert instead “, mining operations, petroleum site or petroleum operations”.	35
<b>[55] Section 72 (2)</b>	36
Omit “mine does not exist”. Insert instead “mine or petroleum site does not exist”.	37

<b>[56]</b>	<b>Section 72 (2)</b>	1
	Omit “mining operations does not take place”.	2
	Insert instead “mining operations or petroleum operations does not take place”.	3
<b>[57]</b>	<b>Section 73 Immunity from liability</b>	4
	Insert “and Petroleum” after “Mining” in section 73 (b).	5
<b>[58]</b>	<b>Section 76 Regulations</b>	6
	Insert after section 76 (4):	7
	(4A) Without limiting subsection (1), the regulations may be made in respect of an activity in relation to petroleum operations that takes place at a workplace other than a petroleum site.	8 9 10
<b>[59]</b>	<b>Schedule 1 Savings, transitional and other provisions</b>	11
	Omit “definition of <i>mine safety legislation</i> in section 3 (1) of the <i>Mine Safety (Cost Recovery) Act 2005</i> ” from clause 13 (1).	12 13
	Insert instead “definition of <i>mine and petroleum sites safety legislation</i> in section 3 (1) of the <i>Mine and Petroleum Site Safety (Cost Recovery) Act 2005</i> ”.	14 15
<b>[60]</b>	<b>Schedule 1, clause 13 (2)</b>	16
	Omit “mining workplace in paragraph (b) of the definition of <i>mine safety legislation</i> in section 3 (1) of the <i>Mine Safety (Cost Recovery) Act 2005</i> ”.	17 18
	Insert instead “mine in paragraph (c) of the definition of <i>mine and petroleum sites safety legislation</i> in section 3 (1) of the <i>Mine and Petroleum Site Safety (Cost Recovery) Act 2005</i> ”.	19 20 21
<b>[61]</b>	<b>Schedule 1</b>	22
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	23
	<b>Part Provisions consequent on enactment of Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Act 2015</b>	24 25 26 27
	<b>Notifiable incidents</b>	28
	Part 3 of this Act extends to an incident occurring at a petroleum site before the commencement of section 15 (1A). However, notice is not required to be given in respect of such an incident if notice has already been given in accordance with the WHS Act in respect of the incident.	29 30 31 32
	<b>Notice of cause of danger</b>	33
	A notice that has effect under section 129 of the <i>Petroleum (Onshore) Act 1991</i> immediately before the repeal of that section, continues to have effect according to its tenor as if it were an improvement notice issued under the <i>WHS Act</i> .	34 35 36 37



<b>Schedule 2</b>	<b>Amendment of Work Health and Safety Act 2011</b>	1
	<b>No 10</b>	2
<b>[1] Section 4 Definitions</b>		3
	Omit the definition of <i>inspector</i> . Insert instead:	4
	<i>inspector</i> means an inspector appointed under Part 9.	5
	<b>Note.</b> Section 18 (8) of the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> deems government officials under that Act to also be inspectors.	6
		7
<b>[2] Section 4, definition of “mining workplace”</b>		8
	Omit the definition.	9
<b>[3] Sections 38 (8), 39 (4), 76A and 271A (1)</b>		10
	Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring.	11
	Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	12
<b>[4] Section 76A Special provision for coal mines</b>		13
	Omit “mining”.	14
<b>[5] Sections 156A and 162A</b>		15
	Omit the sections.	16
<b>[6] Schedule 2 The regulator</b>		17
	Omit clause 1 (1) (b). Insert instead:	18
	(b) in relation to a mine or petroleum site to which the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> applies or a workplace at which activities under the <i>Petroleum (Offshore) Act 1982</i> are carried out—the regulator under the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> .	19
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<b>[7] Schedule 2, clause 1 (3)–(5)</b>		24
	Omit the subclauses.	25
<b>[8] Schedule 2, clause 1 (7)</b>		26
	Insert at the end of the clause:	27
	(7) Nothing in this clause limits section 12A of the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> .	28
		29
	<b>Note.</b> That section authorises both regulators to exercise their functions in relation to all workplaces.	30
		31

<b>Schedule 3</b>	<b>Amendment of Mine Safety (Cost Recovery) Act 2005 No 116</b>	1
		2
<b>[1] Section 1 Name of Act</b>		3
	Insert “ <i>and Petroleum Site</i> ” after “ <i>Mine</i> ”.	4
<b>[2] Sections 3 (1), definition of “Fund”, and 5 (1) and Part 2, Divisions 1 and 2, headings</b>		5
	Insert “and Petroleum Site” after “Mine” wherever occurring.	6
<b>[3] Sections 3 (1), definition of “insurer”, 4 (1) and (2), 10 (5) and (6) and 13 (1), (2) and (5)</b>		7
	Omit “mining industry” wherever occurring.	8
	Insert instead “mining and petroleum industry”.	9
<b>[4] Section 3 (1)</b>		10
	Omit the definitions of <i>licensed mining industry insurer</i> , <i>mine safety legislation</i> , <i>mining industry employer</i> , <i>mining industry self-insurer</i> and <i>specialised mining industry insurer</i> .	11
	Insert in alphabetical order:	12
	<i>licensed mining and petroleum industry insurer</i> means a licensed insurer (within the meaning of the Workers Compensation Acts) who issues workers compensation policies of insurance to mining and petroleum industry employers, but does not include a specialised insurer within the meaning of the Workers Compensation Acts.	13
	<i>mine and petroleum site safety legislation</i> means any of the following Acts and the regulations and other instruments made under them:	14
	(a) this Act,	15
	(b) <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ,	16
	(c) <i>Work Health and Safety Act 2011</i> to the extent that it relates to a mine or a petroleum site to which the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> applies.	17
	<i>mining and petroleum industry employer</i> —see section 4.	18
	<i>mining and petroleum industry self-insurer</i> means a mining and petroleum industry employer who is a self-insurer within the meaning of the Workers Compensation Acts.	19
	<i>specialised mining and petroleum industry insurer</i> means a specialised insurer (within the meaning of the Workers Compensation Acts) who issues workers compensation policies of insurance to mining and petroleum industry employers, and includes the workers compensation company within the meaning of the <i>Coal Industry Act 2001</i> .	20
	<b>Note.</b> The workers compensation company referred to in this definition is taken to be a specialised insurer for the purposes of the Workers Compensation Acts.	21
<b>[5] Sections 4 (1) and 7 (1) (a) and (b) and Part 2, heading</b>		22
	Insert “and petroleum site” after “mine” wherever occurring.	23
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[6] Schedule 1	1
Insert after section 19:	2
<b>Schedule 1 Savings, transitional and other provisions</b>	3
<b>Part 1 General</b>	4
<b>1 Regulations</b>	5
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.	6 7
(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	8 9
(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	10 11 12
(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	13 14 15
(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	16 17 18
(4) A provision referred to in subclause (1) has effect, if the regulations so provide, despite any other clause of this Schedule.	19 20
(5) The regulations may make separate savings and transitional provisions or amend this Schedule to consolidate the savings and transitional provisions.	21 22
<b>Part 2 Provisions consequent on enactment of Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Act 2015</b>	23 24 25
<b>2 Definition</b>	26
In this Part:	27
<i>amending Act</i> means the <i>Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Act 2015</i> .	28 29
<b>3 The Fund</b>	30
The Mine and Petroleum Site Safety Fund is a continuation of the Mine Safety Fund operating under this Act immediately before the commencement of Schedule 3 [2] to the amending Act.	31 32 33
<b>4 Mine and petroleum site safety legislation</b>	34
The definition of <i>mine and petroleum site safety legislation</i> in section 3 (1) is taken to include a reference to the <i>Petroleum (Onshore) Act 1991</i> , to the extent that it related to work health and safety requirements.	35 36 37

<b>Schedule 4</b>	<b>Consequential amendment of other Acts and instruments</b>	1 2
<b>4.1</b>	<b>Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No 45</b>	3
	<b>Section 1 Name of Act, commencement and construction</b>	4
	Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” from section 1 (5).	5
	Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	6
<b>4.2</b>	<b>Coal Industry Act 2001 No 107</b>	7
	<b>Sections 10 (1) (d) and (i) and 45 (2) (a)</b>	8
	Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring.	9
	Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	10
<b>4.3</b>	<b>Dams Safety Act 2015 No 26</b>	11
	<b>Section 27 Power to enter premises</b>	12
	Omit “mine within the meaning of the <i>Work Health and Safety (Mines) Act 2013</i> ” from section 27 (2).	13 14
	Insert instead “mine or petroleum site within the meaning of the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	15 16
<b>4.4</b>	<b>Defamation Act 2005 No 77</b>	17
	<b>Schedule 1, clause 16 and Schedule 3, clause 11</b>	18
	Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring.	19
	Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	20
<b>4.5</b>	<b>Explosives Regulation 2013</b>	21
<b>[1]</b>	<b>Clause 3 Definitions</b>	22
	Omit the definitions of <i>coal workplace</i> and <i>mining workplace</i> from clause 3 (1).	23
	Insert in alphabetical order:	24
	<i>mining workplace</i> means a workplace:	25
	(a) to which the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> applies, or	26 27
	(b) at which activities under the <i>Petroleum (Offshore) Act 1982</i> are carried out.	28 29
<b>[2]</b>	<b>Clause 6 Regulatory authority for mining workplaces</b>	30
	Omit “coal workplaces and” wherever occurring.	31
<b>[3]</b>	<b>Clause 95 Setting of explosives</b>	32
	Omit “mining work” from clause 95 (3).	33
	Insert instead “mining operations (within the meaning of the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> )”.	34 35

<b>[4] Clause 95 (4)</b>	1
Omit the subclause.	2
<b>4.6 Mine Subsidence Compensation Act 1961 No 22</b>	3
<b>Section 6 Body corporate</b>	4
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” from section 6 (5).	5
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	6
<b>4.7 Mining Act 1992 No 29</b>	7
<b>Whole Act</b>	8
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring.	9
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	10
<b>4.8 Offshore Minerals Act 1999 No 42</b>	11
<b>Sections 123, 183, 259 and 308</b>	12
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring in the notes.	13
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	14
<b>4.9 Petroleum (Onshore) Act 1991 No 84</b>	15
<b>Sections 128 and 129</b>	16
Omit the sections.	17
<b>4.10 Petroleum (Onshore) Regulation 2007</b>	18
<b>Clause 27 Safety practices</b>	19
Omit the clause.	20
<b>4.11 Radiation Control Act 1990 No 13</b>	21
<b>[1] Section 38 Consultation and co-operation between Ministers</b>	22
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring in section 38 (a) (i) and (b).	23
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	24
<b>[2] Section 38 (a) (iv)</b>	25
Omit section 38 (a) (iv) and (v). Insert instead:	26
(iv) <i>Offshore Minerals Act 1999</i> , and	27
<b>4.12 Surveying and Spatial Information Act 2002 No 83</b>	28
<b>Sections 3 (1), definition of “mining survey”, 9A (6) (b), 13 (4) (f), 27 (2) (f) and 36 (3)</b>	29
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” wherever occurring.	30
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	31
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<b>4.13 Workers Compensation Act 1987 No 70</b>	1
<b>Section 3 Definitions</b>	2
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” from the definition of <i>mine</i> in section 3 (1).	3 4
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	5
<b>4.14 Workers’ Compensation (Dust Diseases) Act 1942 No 14</b>	6
<b>Section 3 Definitions</b>	7
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” from the definition of <i>mine</i> in section 3 (1).	8 9
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	10
<b>4.15 Workplace Injury Management and Workers Compensation Act 1998 No 86</b>	11 12
<b>Section 4 Definitions</b>	13
Omit “ <i>Work Health and Safety (Mines) Act 2013</i> ” from section 4 (6).	14
Insert instead “ <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> ”.	15