

[Act 2002 No 50]



New South Wales

Mining Legislation Amendment (Health and Safety) Bill 2002

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Occupational Health and Safety Act 2000* to enable the appointment of inspectors to perform functions under that Act solely in relation to mines, and
 - (b) to amend the *Coal Mines Regulation Act 1982* and the *Mines Inspection Act 1901* to provide that the exercise of the functions referred to in paragraph (a) are subject to certain requirements that exist in relation to the exercise of inspection and investigation functions under the mining legislation, and
 - (c) to amend the *Coal Mines Regulation Act 1982* to bring the definition of **owner** under that Act into line with the definition of **owner** under the *Mines Inspection Act 1901*, and
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- (d) to amend the *Mining Act 1992* to provide for the establishment of a Mine Safety Advisory Council.

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.

Clause 3 is a formal provision giving effect to the amendments to the *Coal Mines Regulation Act 1982* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Mines Inspection Act 1901* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendment to the *Mining Act 1992* set out in Schedule 3.

Clause 6 is a formal provision giving effect to the amendments to the *Occupational Health and Safety Act 2000* set out in Schedule 4.

Schedule 1 Amendment of Coal Mines Regulation Act 1982

Schedule 1 [1] amends the definition of *owner* in the Act to provide that the owner of a mine or part of a mine that is being worked by a subcontractor includes the subcontractor. The amendment gives effect to provisions contained in International Labour Organisation Convention 176 (relating to health and safety in mines). It mirrors amendments already made to the definition of *owner* in the *Mines Inspection Act 1901*.

Schedule 1 [2] requires an inspector appointed in relation to a coal mine under the *Occupational Health and Safety Act 2000* to enable certain persons being questioned by the inspector to nominate another person to be present as is the case when inspectors under the *Coal Mines Regulation Act 1982* question persons. The provision also enables regulations to be made applying other such requirements to those inspectors appointed under the *Occupational Health and Safety Act 2000*.

Schedule 1 [3] enables savings and transitional regulations to be made in relation to the amendments to the Act outlined above.

Schedule 2 Amendment of Mines Inspection Act 1901

Schedule 2 [1] requires an inspector appointed in relation to a coal mine under the *Occupational Health and Safety Act 2000* to enable certain persons being questioned by the inspector to nominate another person to be present as is the case when inspectors under the *Mines Inspection Act 1901* question persons. The provision also enables regulations to be made applying other such requirements to those inspectors appointed under the *Occupational Health and Safety Act 2000*.

Schedule 2 [2] enables savings and transitional regulations to be made in relation to the amendments to the Act outlined above.

Schedule 3 Amendment of Mining Act 1992

Schedule 3 provides for the establishment of a Mine Safety Advisory Council by the Minister that includes representation from peak industry and employee organisations. The Advisory Council is to have the function of providing advice to the Minister on any policy matter relating to occupational health and safety in mines and any other advisory function relating to occupational health and safety in mines that is prescribed by the regulations.

Schedule 4 Amendment of Occupational Health and Safety Act 2000

Schedule 4 [4] enables the Minister to appoint inspectors to carry out functions under the Act in relation to mines. Those functions include powers of entry and inspection in relation to mines and the issue of improvement and prohibition notices in relation to mines.

Schedule 4 [5] requires those inspectors to be issued with identification cards.

Schedule 4 [1]–[3] and [6]–[8] contain consequential amendments.

Schedule 4 [9] enables the Minister and the Director-General of the Department of Mineral Resources to delegate certain functions under the Act relating to mines.

Schedule 4 [10] enables savings and transitional regulations to be made in relation to the amendments to the Act outlined above.