



New South Wales

Coal Mine Health and Safety Amendment Bill 2010

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to clarify that inspectors from the Department of Industry and Investment, not the WorkCover Authority, have jurisdiction under the *Occupational Health and Safety Act 2000* (*the OH&S Act*) over all workplaces where coal mining related activities occur, and
- (b) to provide for the Minister for Mineral and Forest Resources to determine whether a mine or other place is a mine or place to which the *Coal Mine Health and Safety Act 2002* (*the CMH&S Act*) applies, and
- (c) to provide that the CMH&S Act does not apply to railway operations, public roads, civil engineering works or power lines, and
- (d) to provide for the registration of mines under the *Mining Act 1992*, in place of the current registration of colliery holdings.

Outline of provisions

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

Clause 2 provides that the proposed Act commences on a day or days to be proclaimed.

Schedule 1 Amendment of Coal Mine Health and Safety Act 2002 No 129

Schedule 1 [1] omits the definition of a term that will no longer be used and inserts instead a definition of *abandoned mine*, which includes a discontinued mine, a closed mine (other than a suspended mine) and a former mine.

Schedule 1 [2] inserts four definitions (two of which are transferred from elsewhere in the CMH&S Act, having been omitted by **Schedule 1 [15]**). *Coal exploration* is defined as the carrying out of works on, or the removal of samples from, land for the purpose of testing the coal-bearing qualities of the land, but the definition provides for the regulations to exclude activities or classes of activities.

Schedule 1 [3] replaces the definition of *coal exploration site* so that it means a place where coal exploration is carried out and includes a place where coal exploration has been carried out and that is being rehabilitated.

Schedule 1 [4] replaces the definition of *coal operation*. The new definition includes any place of work to which the CMH&S Act applies that is prescribed by the regulations.

Schedule 1 [5] replaces the definition of *colliery holder*. The new definition clarifies that, in relation to land subject to an authority for coal granted under the *Mining Act 1992*, the colliery holder is the person who holds the authority. In relation to land subject to a licence for coal granted under the *Offshore Minerals Act 1999*, the colliery holder is the person who holds the licence. In relation to other land, the colliery holder is the person having beneficial ownership of the mine.

Schedule 1 [6] replaces the definition of *colliery holding*.

Schedule 1 [7] updates the definition of *Department*.

Schedule 1 [8] and [9] replace the definition of *mine*. The new definition of the noun extends beyond any coal operation within which coal is disturbed in its natural place of formation, and means any of the following:

- (a) any place where the extraction of material from land for the purpose of recovering coal is carried out,
- (b) any coal preparation plant at or near the place from which the material or coal was extracted,
- (c) any place where the storage or treatment of waste resulting from the extraction of material from land for the purpose of recovering coal is carried out (if that place is at or near the place from which the material or coal was extracted),

- (d) any place where the treatment of the coal or the material extracted for the purpose of recovering or improving coal is carried out (if that place is at or near the place from which the material or coal was extracted),
- (e) any place where coal exploration is carried out,
- (f) any place where offshore mining activities (within the meaning of the *Offshore Minerals Act 1999*) for coal are carried out,
- (g) any place where operations associated with the care, security or maintenance of such a place are carried out during any time when activities or operations at that place are suspended,
- (h) any place where operations associated with the decommissioning or abandonment of such a place are carried out,
- (i) any place where such an activity or operation is or has been carried out and that is being rehabilitated.

Schedule 1 [10] omits a provision that provides that certain things are part of a coal operation. (The substance of the provision is transferred to the regulations by **Schedule 3.3 [1]**.)

Schedule 1 [11] substitutes Part 2 of the CMH&S Act, which currently deals with the application of that Act. Proposed Part 2 includes the following provisions:

- (a) proposed section 8 provides that the CMH&S Act applies to all places of work that are mines and to certain other specified places. (At present, that Act applies to all places of work that are within a colliery holding, that are coal exploration sites or that are the subject of a licence to mine coal under the *Offshore Minerals Act 1999*),
- (b) proposed section 8A provides for the regulations to exclude a mine or place of a certain class from the operation of the CMH&S Act and for the Minister for Mineral and Forest Resources to specify (by notice published in the Gazette) mines or places to which that Act does not apply,
- (c) proposed section 8B provides for the Minister to determine certain jurisdictional questions,
- (d) proposed section 8C provides that the CMH&S Act does not apply to railway operations or public roads,
- (e) proposed section 8D provides that the CMH&S Act does not apply to civil engineering works,
- (f) proposed section 8E provides that the CMH&S Act does not apply to powerlines,
- (g) proposed section 9 provides that the CMH&S Act binds the Crown.

Schedule 1 [12]–[14] extend duties that currently require exploration holders to give notice of drilling operations so that those duties apply to any colliery holder.

Schedule 1 [16] updates a definition of *mine*.

Schedule 1 [17] provides that obligations to notify incidents under Division 1 of Part 7 of the CMH&S Act apply to all coal operations and mines.

Schedule 1 [18] updates a provision relating to the making of stop work orders.

Schedule 1 [19] provides that an instrument appointing a person as a government official may limit the person's functions under the OH&S Act, as well as under the CMH&S Act.

Schedule 1 [20] and [21] provide for the consideration and investigation of complaints concerning mines rather than just coal operations.

Schedule 1 [22] provides that a government official has the function of providing advice relating to the health, safety and welfare of people at work at mines, rather than just at coal operations, as is currently the case.

Schedule 1 [23] inserts a power for government officials to require the colliery holder for a mine to provide a plan of all or part of the mine.

Schedule 1 [24] provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

Schedule 1 [25] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Mining Act 1992 No 29

Schedule 2 [1] omits a provision that restricts the granting of an exploration licence over land within a colliery holding.

Schedule 2 [2] omits a provision that restricts the granting of an assessment lease over land within a colliery holding.

Schedule 2 [3] omits a provision that restricts the granting of a mining lease over land within a colliery holding.

Schedule 2 [4] replaces a requirement to keep a register of colliery holdings with a requirement to keep a register of mines. The register must record, among other things, the name of each mine at which mining operations are carried out under the authority of a lease.

Schedule 2 [5] omits a provision that restricts the granting of mineral claims over land within a colliery holding.

Schedule 2 [6] provides for the making of savings and transitional regulations consequent on the enactment of the proposed Schedule.

Schedule 2 [7] inserts savings and transitional provisions consequent on the amendment made by **Schedule 2 [4]**.

Schedule 2 [8] updates the definition of *colliery holding*.

Schedule 3 Amendment of other Acts and instruments

Schedule 3.1 updates the definition of *colliery holding* in the *Coal Acquisition (Compensation) Arrangements 1985* and clarifies where that term only relates to past matters.

Schedule 3.2 inserts definitions of *colliery holder* and *colliery holding* in the *Coal Acquisition (Re-acquisition Arrangements) Order 1997*.

Schedule 3.3 makes amendments to the *Coal Mine Health and Safety Regulation 2006* that are consequential on the amendments made by Schedule 1.

Schedule 3.4 makes it clear that a reference to a *colliery holding* in the *Coal Ownership (Restitution) Act 1990* relates to a colliery holding within the meaning of the *Coal Mining Act 1973* as in force on 1 January 1986.

Schedule 3.5 makes it clear that a particular reference to a *colliery holding* in the *Coal Ownership (Restitution) Regulation 2005* relates to a colliery holding within the meaning of the *Coal Mining Act 1973* as in force immediately before its repeal.

Schedule 3.6 amends the *Mine Health and Safety Act 2004* to bring section 8 of that Act in line with proposed section 8B of the CMH&S Act. The amendments also provide that instruments appointing a person as a government official may limit the functions that the person has.

Schedule 3.7 updates the definitions of *Colliery holding* and *Proprietor* in the *Mine Subsidence Compensation Act 1961*.

Schedule 3.8 omits uncommenced amendments to provisions of the *Mining Act 1992* from the *Mining Amendment Act 2008*. Those amendments relate to the registration of colliery holdings and are redundant as a result of the amendments made by **Schedule 2**. The Subschedule also makes an amendment that is consequential on the amendment made by **Schedule 2 [4]**.

Schedule 3.9 updates a provision of the *Mining Regulation 2003* relating to the registration of colliery holdings as a consequence of the amendment made by **Schedule 2 [4]**.

Schedule 3.10 provides that the functions that an inspector appointed under the *Mine Health and Safety Act 2004* or the CMH&S Act has under the OH&S Act may be limited by his or her appointment.

Schedule 3.11 updates the definition of *holding* in the *Petroleum (Onshore) Regulation 2007* and inserts a new definition of *colliery holding*.



New South Wales

Coal Mine Health and Safety Amendment Bill 2010

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New South Wales

Coal Mine Health and Safety Amendment Bill 2010

No. , 2010

A Bill for

An Act to amend the *Coal Mine Health and Safety Act 2002* in relation to the application of that Act and other matters; to amend the *Mining Act 1992* to provide for the registration of mines rather than colliery holdings; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Coal Mine Health and Safety Amendment Act 2010</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1	Amendment of Coal Mine Health and Safety Act 2002 No 129	1
		2
[1] Section 3 Definitions		3
	Omit the definition of <i>abandoned coal operation</i> . Insert instead:	4
	<i>abandoned mine</i> includes a discontinued mine, a closed mine (other than a suspended mine) and a former mine.	5
		6
[2] Section 3		7
	Insert in alphabetical order:	8
	<i>coal exploration</i> means the carrying out of works on, or the removal of samples from, land for the purpose of testing the coal-bearing qualities of the land, but does not include any activity or class of activity that is excluded from this definition by the regulations.	9
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	<i>emplacement area</i> means:	14
	(a) any pile, heap, hole, excavation or place in which, or on which, reject (whether in a solid state or in a solution or suspension) is piled, heaped, dumped, accumulated, deposited or placed, and	15
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	(b) any wall or other structure that retains or confines reject, whether or not that wall or structure is itself composed of reject,	19
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	but does not include an accumulation or deposit of reject situated underground.	22
		23
	<i>land</i> includes land covered by water.	24
	<i>reject</i> means any carbonaceous material, whether it is mixed with or attached to stone or not, that is left after the treatment of coal in a coal preparation plant or that is not dealt with as coal by the occupier of a mine.	25
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		28
[3] Section 3, definition of “coal exploration site”		29
	Omit the definition. Insert instead:	30
	<i>coal exploration site</i> means a place where coal exploration is carried out and includes a place that is being rehabilitated after coal exploration has been carried out.	31
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[4] Section 3, definition of “coal operation”	1
Omit the definition. Insert instead:	2
<i>coal operation</i> :	3
(a) means a place at which coal is mined that is a place of work to which this Act applies, and	4
(b) includes any other places of work to which this Act applies that are prescribed by the regulations for the purposes of this definition.	5
6	6
7	7
8	8
[5] Section 3, definition of “colliery holder”	9
Omit the definition. Insert instead:	10
<i>colliery holder</i> means:	11
(a) in relation to land subject to an authority for coal granted under the <i>Mining Act 1992</i> —the person who holds the authority, or	12
13	13
14	14
(b) in relation to land subject to a licence for coal granted under the <i>Offshore Minerals Act 1999</i> —the person who holds the licence, or	15
16	16
17	17
(c) in relation to any other land—the person having the beneficial ownership of the mine.	18
19	19
[6] Section 3, definition of “colliery holding”	20
Omit the definition. Insert instead:	21
<i>colliery holding</i> has the same meaning as it has in the <i>Mining Act 1992</i> .	22
23	23
[7] Section 3, definition of “Department”	24
Omit the definition. Insert instead:	25
<i>Department</i> means the Department of Industry and Investment.	26
[8] Section 3, definition of “mine”	27
Omit the definition. Insert instead:	28
<i>mine</i> —see section 3A.	29

[9] Section 3A	1
Insert after section 3:	2
3A Meaning of “mine”	3
(1) In this Act:	4
<i>mine</i> :	5
(a) when used as a noun, means any of the following:	6
(i) any place where the extraction of material from land for the purpose of recovering coal is carried out,	7
(ii) any coal preparation plant at or near the place from which the material or coal was extracted,	9
(iii) any place where the storage or treatment of waste resulting from:	11
(A) the extraction of material from land for the purpose of recovering coal, or	13
(B) the treatment of the coal or the material referred to in sub-subparagraph (A) for the purpose of recovering or improving coal,	15
is carried out, if that place is at or near the place from which the material or coal was extracted,	18
(iv) any place where coal exploration is carried out,	20
(v) any place where offshore mining activities (within the meaning of the <i>Offshore Minerals Act 1999</i>) for coal are carried out,	21
(vi) any place where operations associated with the care, security or maintenance of a place referred to in this definition are carried out during any time when activities or operations at that place are suspended,	24
(vii) any place where operations associated with the decommissioning or abandonment of a place referred to in this definition are carried out,	28
(viii) any place where an activity or operation referred to in this definition is or has been carried out and that is being rehabilitated, and	31
(b) when used as a verb, means disturb, remove, cart, carry, crush or otherwise deal with coal or stone for the purpose of obtaining coal for profit or improving coal, or carry out such other activities as may be prescribed by the regulations, but does not include:	34
(i) to explore for coal by drilling from the surface, or	35
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- (ii) to blend coal where this is done elsewhere than at a mine. 1
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- (2) For the purposes of this section, any building, structure, pit, shaft, drive, level, incline, decline, excavation or work that is at a place referred to in the definition of *mine* in subsection (1), and that is in the course of construction and intended to be part of a mine, is taken to be part of the mine constituted by that place. 3
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- (3) For the purposes of this section, the ***extraction of material from land for the purpose of recovering coal*** includes the following: 8
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- (a) any activity that is ancillary to, or connected with, extracting material for such a purpose, including, but not limited to: 10
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12
- (i) storage of fuel, explosives, explosive precursors, machinery, timber or plant, and 13
14
- (ii) construction, maintenance and use of any drill hole or shaft for: 15
16
- (A) the drainage of gas, or 17
- (B) the drainage or conveyance of water, or 18
- (C) ventilation, or 19
- (D) the conveyance of electricity, or 20
- (E) communications, or 21
- (F) emergency access to underground workings, and 22
23
- (iii) the storage, treatment and transport of water (including the management of runoff from areas disturbed by activities directly connected with mining), 24
25
26
27
- (b) the transportation, stockpiling or depositing of overburden, coal or waste material, 28
29
- (c) such other activities as may be prescribed by the regulations, 30
31
- but does not include any activity or class of activity that is excluded from the operation of this subsection by the regulations. 32
33
- (4) For the purposes of this section (but subject to the regulations), a place (the ***relevant place***) is taken to be ***near*** a place if: 34
35
- (a) the relevant place is operating on an ongoing basis, and 36

	(b) the relevant place (or any part of it) is within 10 kilometres of the nearest boundary of the place, and	1 2
	(c) the relevant place is under the same or related management as the place.	3 4
[10]	Section 4 Certain things are part of a coal operation	5
	Omit the section.	6
[11]	Part 2	7
	Omit the Part. Insert instead:	8
	Part 2 Application of Act	9
	8 Application of Act	10
	(1) This Act applies to all places of work that are mines.	11
	(2) This Act also applies to any of the following places, whether or not it is a place of work:	12 13
	(a) an abandoned mine (other than an abandoned mine used for the storage, treatment or disposal of waste that is not connected with an activity or operation referred to in paragraph (a) (i)–(v) of the definition of <i>mine</i> in section 3A (1)),	14 15 16 17 18
	(b) any place that would otherwise be a mine if relevant activities or operations are carried out, during any time when those activities or operations at that place are suspended,	19 20 21 22
	(c) any place at which drilling operations (within the meaning of section 78) are carried out,	23 24
	(d) any land (that is not otherwise a mine within the meaning of section 3A) on which activities or uses take place that are the subject of, or required to be the subject of, a permit issued under Division 4 of Part 6,	25 26 27 28
	(e) any emplacement area.	29
	8A Act does not apply to certain mines or places	30
	(1) This Act does not apply to:	31
	(a) any mine or place that is of a class prescribed by the regulations or in circumstances or during time periods prescribed by the regulations, or	32 33 34

(b)	any specified mine or place, specified by the Minister in a notice published in the Gazette.	1 2
(2)	The Minister is to notify any other Minister administering the <i>Occupational Health and Safety Act 2000</i> if any notice under subsection (1) (b) is published in the Gazette. However, failure to notify any such other Minister does not affect the validity of the notice.	3 4 5 6 7
8B	Decisions on jurisdictional questions	8
(1)	The Minister may make a determination as to whether a particular place is or is not a place to which this Act applies. The determination may be of general application or be limited as to time or circumstances.	9 10 11 12
(2)	The Minister's determination is conclusive for the purposes of deciding a jurisdictional question (including a jurisdictional question arising in court proceedings).	13 14 15
(3)	A <i>jurisdictional question</i> is a question as to whether functions of a government official under this Act or of an inspector under the <i>Occupational Health and Safety Act 2000</i> were or can be validly exercised or a question as to whether proceedings for an offence under this Act or the <i>Occupational Health and Safety Act 2000</i> were or can be validly instituted.	16 17 18 19 20 21
(4)	A determination under this section applies in respect of functions exercised or purportedly exercised before or after the determination was made but not so as to affect court proceedings commenced before the determination was made.	22 23 24 25
(5)	A determination under this section does not operate to result in a person committing an offence that the person would not have committed had the determination not been made.	26 27 28
(6)	A certificate of the Minister certifying as to a determination made by the Minister under this section is evidence of the Minister's determination and the date of the determination.	29 30 31
(7)	The Minister is to notify any other Minister administering the <i>Occupational Health and Safety Act 2000</i> of any determination made by the Minister under this section (but a failure to notify the other Minister does not affect the validity of the determination).	32 33 34 35

8C	Act does not apply to railway operations or roads	1
(1)	This Act does not apply to a railway or railway operations to which the <i>Rail Safety Act 2008</i> applies.	2 3
(2)	This Act does not apply to public roads (within the meaning of the <i>Roads Act 1993</i>).	4 5
8D	Act does not apply to civil engineering works	6
(1)	Subject to the regulations and any notice given by the Minister under section 8A (1) (b), this Act does not apply to:	7 8
(a)	any place where the extraction of coal is carried out, if those activities are an integral part of any civil engineering work, or	9 10 11
(b)	any place where underground work involving the extraction or treatment of coal is carried out, where that work is an integral part of any civil engineering work.	12 13 14
(2)	In this section:	15
	<i>civil engineering work</i> means the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland waterways, dams, river and avalanche and sea defence works, roads and highways, railways, bridges and tunnels, viaducts and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies.	16 17 18 19 20 21 22
8E	Act does not apply to powerlines	23
	This Act does not apply to electricity infrastructure that is owned by a network operator or retail supplier (within the meaning of the <i>Electricity Supply Act 1995</i>).	24 25 26
9	Act to bind Crown	27
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	28 29 30
[12]	Part 5, Division 7, heading	31
	Omit “exploration holders”. Insert instead “colliery holders”.	32
[13]	Section 78 Duty to give notice of drilling operations	33
	Omit “An exploration holder” from section 78 (1).	34
	Insert instead “A colliery holder”.	35

[14] Section 78 (1)	1
Omit “the exploration holder”. Insert instead “the colliery holder”.	2
[15] Section 98 Definitions	3
Omit the definitions of <i>emplacement area</i> and <i>reject</i> from section 98 (1).	4
[16] Section 105 Definitions	5
Omit the definition of <i>mine</i> . Insert instead:	6
<i>mine</i> includes an abandoned mine or part of a mine.	7
[17] Section 110	8
Omit the section. Insert instead:	9
110 Notification of certain incidents and other matters	10
(1) The operator of a coal operation must ensure that the Chief Inspector and an industry check inspector are given notice in accordance with this section of any of the following incidents (<i>notifiable incidents</i>):	11
(a) any incident at the coal operation that has resulted in a person being killed,	12
(b) any other incident at the coal operation of a kind prescribed by the regulations for the purposes of this paragraph,	13
(c) any incident or other matter occurring at, or in relation to, the coal operation that the regulations declare to be an incident or matter that is required to be notified.	14
(2) The colliery holder for a mine must ensure that the Chief Inspector and an industry check inspector are given notice in accordance with this section of any of the following incidents (<i>notifiable incidents</i>):	15
(a) any incident at the mine that has resulted in a person being killed,	16
(b) any other incident at the mine of a kind prescribed by the regulations for the purposes of this paragraph,	17
(c) any incident or other matter occurring at, or in relation to, the mine that the regulations declare to be an incident or matter that is required to be notified.	18
(3) Any notice under this section must be given:	19
(a) as soon as practicable (but not later than 7 days) after each person required to give notice becomes aware of the notifiable incident, and	20
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(b)	in writing and, if a form has been prescribed by the regulations, in that form.	1 2
(4)	Any notice must, in the case of a notifiable incident referred to in subsection (1) (a) or (b) or (2) (a) or (b), also be given:	3 4
(a)	immediately after the person required to give the notice becomes aware of the incident, and	5 6
(b)	by the quickest available means.	7
	This subsection does not apply if the person required to give the notice is aware that another person has given the required notice of the incident.	8 9 10
(5)	The regulations may vary the obligations under this section with respect to the person required to give the notice and the time and manner in which notice is to be given.	11 12 13
[18]	Section 118 Minister to make stop work orders	14
	Omit section 118 (2). Insert instead:	15
(2)	An order takes effect on and from the time at which:	16
(a)	if the order relates to a mine—a copy is provided to the colliery holder for the relevant colliery holding by the Minister, or	17 18 19
(b)	if the order relates to a coal operation—a copy is provided to the operator of the coal operation by the Minister, or	20 21
(c)	the person carrying out, or about to carry out, the action the subject of the order is notified by the Minister that the order has been made,	22 23 24
	whichever is the sooner.	25
[19]	Section 145 Appointment of government officials	26
	Omit section 145 (2). Insert instead:	27
(2)	An instrument appointing a person under this section may limit the functions that the person has as a government official or under the <i>Occupational Health and Safety Act 2000</i> .	28 29 30
[20]	Section 151 Consideration and investigation of complaints	31
	Omit “coal operation” from section 151 (1), wherever occurring.	32
	Insert instead “mine”.	33
[21]	Section 151 (4)	34
	Insert “or the colliery holder for the mine” after “coal operation”.	35

[22] Section 153 Additional functions	1
Omit “coal operations” wherever occurring. Insert instead “mines”.	2
[23] Section 156A	3
Insert after section 156:	4
156A Power to require plan from colliery holder	5
(1) A government official may require the colliery holder for a mine to provide the government official with a plan of all or part of the mine marked with information that the government official considers necessary for an investigation or inquiry that the government official is making.	6 7 8 9 10
(2) A colliery holder must not fail to comply with a requirement made under this section.	11 12
Maximum penalty: 100 penalty units.	13
[24] Schedule 3 Savings, transitional and other provisions	14
Insert at the end of clause 1 (1):	15
<i>Coal Mine Health and Safety Amendment Act 2010</i>	16
[25] Schedule 3	17
Insert after clause 26:	18
Part 3 Provision consequent on enactment of Coal Mine Health and Safety Amendment Act 2010	19 20 21
27 Validation	22
(1) Anything done or omitted to be done in the exercise or purported exercise of a function under this Act, the OH&S Act or the <i>Explosives Act 2003</i> before the relevant date that would have been validly done if the amending Act had been in force is validated.	23 24 25 26 27
(2) Without limiting subclause (1):	28
(a) any prosecution commenced for an offence under this Act, or an offence under the OH&S Act, before the relevant date that would have been validly commenced had the amending Act been in force at the time the prosecution commenced is taken to have been validly commenced, and	29 30 31 32 33

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- (b) the exercise, or purported exercise, before the relevant date of a function under the OH&S Act by an inspector appointed under section 47 of that Act, or an inspector taken to have been appointed as an inspector under the OH&S Act pursuant to section 47B of that Act, that would have been valid had the amending Act been in force at the time of the exercise is validated, and
- (c) the exercise, or purported exercise, before the relevant date of a function under this Act by a government official that would have been valid had the amending Act been in force at the time of the exercise is validated, and
- (d) the exercise, or purported exercise, before the relevant date of a function under the *Explosives Act 2003* by a regulatory authority under that Act, or an inspector appointed under that Act, that would have been valid had the amending Act been in force at the time of the exercise is validated, and
- (e) any penalty notice issued under the OH&S Act before the relevant date that could have been issued under this Act had the amending Act been in force at the time of its issue is validated.
- (3) In this clause:
- amending Act*** means the *Coal Mine Health and Safety Amendment Act 2010*.
- OH&S Act*** means the *Occupational Health and Safety Act 2000*.
- relevant date*** means the date of commencement of Schedule 1 [11] to the amending Act.
- under***, in relation to an Act, includes under the regulations made under the Act.

Schedule 2	Amendment of Mining Act 1992 No 29	1
[1]	Section 21 Colliery holdings	2
	Omit the section.	3
[2]	Section 40 Colliery holdings	4
	Omit the section.	5
[3]	Section 61 Colliery holdings	6
	Omit the section.	7
[4]	Section 163	8
	Omit the section. Insert instead:	9
163	Registration of mines	10
(1)	The Director-General is to keep a register of mines (<i>the register</i>) in written or electronic form.	12
(2)	The Director-General is to cause the following particulars to be recorded in the register:	13
	(a) the name of each mine at which mining operations are carried out under the authority of a mining lease,	14
	(b) in relation to each such mine, details of any mining lease that applies to all or part of the land within the mine,	15
	(c) the name of the holder of each such mining lease,	16
	(d) in relation to each such mining lease, details of the address for service of the holder of the lease,	17
	(e) a list of the minerals authorised to be mined at the mine under the authority of a mining lease,	18
	(f) any former names of the mine,	19
	(g) any other particulars that are prescribed by the regulations.	20
(3)	The holder of a mining lease must notify the Director-General of:	21
	(a) the name of each mine at which mining operations are intended to be carried out under the authority of the lease, no later than 30 days after the lease is granted and, in any case, before commencing mining operations under the mining lease, and	22
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| (b) | any change in any of the following particulars in relation to a mine, as soon as practicable after the change: | 1 |
| (i) | the name of any mine at which mining operations are carried out under the authority of the lease, | 2 |
| (ii) | the leases or the subleases comprising that mining operation, | 3 |
| (iii) | the address for service of the holder of the mining lease, and | 4 |
| (c) | any assignment of the mining lease so that it applies to another mine, as soon as practicable after the assignment. | 5 |
| | Maximum penalty: 20 penalty units. | 6 |
| (4) | A notification under this section: | 7 |
| (a) | must be lodged with the Director-General, and | 8 |
| (b) | must be in the approved form, and | 9 |
| (c) | must be accompanied by the particulars prescribed by the regulations, and | 10 |
| (d) | must be accompanied by the particulars required by the approved form for such a notification, and | 11 |
| (e) | must be accompanied by the fee prescribed by, or determined in accordance with, the regulations. | 12 |
| (5) | Within 14 days after a notification is lodged under subsection (4) (or within such longer period as may be prescribed by the regulations), the Director-General must: | 13 |
| (a) | cause the register to be updated, as soon as practicable, in accordance with the notification, or | 14 |
| (b) | refuse to update the register on either of the following grounds: | 15 |
| (i) | the notification does not comply with the requirements of this section or the regulations, | 16 |
| (ii) | the name proposed for the mine may cause confusion (because, for example, it is the same as or similar to a name that is or was used for another mine, whether registered or not). | 17 |
| (6) | The register must be kept available at such offices of the Department as may be prescribed by the regulations for inspection by members of the public, free of charge. | 18 |
| (7) | Section 130 applies to a notification under this section in the same way as it applies to an application referred to in section 130 (1). | 19 |

[5] Section 186 Colliery holdings	1
Omit the section.	2
[6] Schedule 6 Savings, transitional and other provisions	3
Insert at the end of clause 1 (1):	4
<i>Coal Mine Health and Safety Amendment Act 2010</i> —but only to the extent that it amends this Act	5 6
[7] Schedule 6	7
Insert at the end of the Schedule with appropriate Part and clause numbering:	8
Part Provisions consequent on enactment of Coal Mine Health and Safety Amendment Act 2010	9 10 11
Definition	12
In this Part:	13
<i>amending Act</i> means the <i>Coal Mine Health and Safety Amendment Act 2010</i> .	14 15
Register of mines	16
The Director-General may include in the register of mines under section 163:	17 18
(a) the information on the register of colliery holdings immediately before the substitution of that section by the amending Act, and	19 20 21
(b) any other information contained in files of the Department.	22
Transitional provision about register of mines	23
A person is not liable for an offence under section 163 (3) (as substituted by the amending Act) in respect of any act or omission that occurs within 6 months after that substitution.	24 25 26
[8] Dictionary	27
Omit the definition of <i>colliery holding</i> . Insert instead:	28
<i>colliery holding</i> means land:	29
(a) that is subject to one or more leases authorising the mining of coal, and	30 31
(b) that is within the boundaries of a mine registered under section 163.	32 33

Schedule 3	Amendment of other Acts and instruments	1
		2
3.1	Coal Acquisition (Compensation) Arrangements 1985	3
[1]	Clause 3 Definitions	4
	Omit the definition of <i>colliery holding</i> from clause 3 (1). Insert instead:	5
	<i>colliery holding</i> has the same meaning as it has in the <i>Mining Act 1992</i> .	6
		7
[2]	Clause 9 Persons eligible to make claims for compensation	8
	Insert “(within the meaning of the <i>Coal Mining Act 1973</i> , as in force when the saleable coal was vested in the person)” after “colliery holding” in clause 9 (1) (b).	9
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		11
[3]	Clause 18 Calculation of compensation in respect of claims under clause 10 or 11	12
	Insert after clause 18 (4):	13
		14
	(5) The substitution of section 163 of the <i>Mining Act 1992</i> by the <i>Coal Mine Health and Safety Amendment Act 2010</i> does not affect the operation of this clause.	15
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3.2	Coal Acquisition (Re-acquisition Arrangements) Order 1997	18
[1]	Clause 3 Definitions	19
	Insert in alphabetical order:	20
	<i>colliery holder</i> , in relation to land subject to an authority for coal granted under the <i>Mining Act 1992</i> , means the person who holds the authority.	21
		22
		23
	<i>colliery holding</i> has the same meaning as it has in the <i>Mining Act 1992</i> .	24
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[2]	Clauses 16 (3) and 22 (3)	26
	Omit “registered holder of” wherever occurring.	27
	Insert instead “colliery holder for”.	28

3.3 Coal Mine Health and Safety Regulation 2006	1
[1] Clause 5A	2
Insert after clause 5:	3
5A Certain things are part of coal operation	4
For the purposes of paragraph (b) of the definition of <i>coal operation</i> in section 3 of the Act, any building, structure, pit, shaft, drive, level, drift, excavation or work within a colliery holding:	5
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(a) that is in the course of construction and that is intended to be part of a coal operation, or	9
	10
(b) that is a part of a coal operation and that is in the course of being abandoned, or	11
	12
(c) that is a part of a coal operation the operations at or in which are in the course of being discontinued,	13
	14
is prescribed to be part of a coal operation.	15
[2] Clause 6	16
Omit the clause. Insert instead:	17
6 Act does not apply to certain places	18
The classes of places specified in Schedule 1 are prescribed for the purposes of section 8A (1) (a) of the Act.	19
	20
Note. The Act does not apply to any place that is specified by the Minister in a notice published in the Gazette under section 8A (1) (b) of the Act.	21
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	23
[3] Schedule 1 Places to which Act does not apply	24
Omit clause 1.	25
[4] Schedule 1, clause 2	26
Omit “abandoned coal operations” wherever occurring.	27
Insert instead “abandoned mines”.	28
[5] Schedule 1, clause 2 (b)	29
Omit “abandoned coal operation”. Insert instead “abandoned mine”.	30

3.4 Coal Ownership (Restitution) Act 1990 No 19	1
Section 3 Definitions	2
Insert “(within the meaning of the <i>Coal Mining Act 1973</i> , as in force on that date)” after “colliery holding” in paragraph (b) of the definition of <i>coal to which this Act applies</i> .	3 4 5
3.5 Coal Ownership (Restitution) Regulation 2005	6
Clause 9 Factors to be taken into account when determining applications	7 8
Insert “(within the meaning of the <i>Coal Mining Act 1973</i> , as in force immediately before its repeal)” after “colliery holding” in clause 9 (c).	9 10
3.6 Mine Health and Safety Act 2004 No 74	11
[1] Section 8	12
Omit the section. Insert instead:	13
8 Decisions on jurisdictional questions	14
(1) The Minister may make a determination as to whether a particular place is or is not a place to which this Act applies. The determination may be of general application or be limited as to time or circumstances.	15 16 17 18
(2) The Minister’s determination is conclusive for the purposes of deciding a jurisdictional question (including a jurisdictional question arising in court proceedings).	19 20 21
(3) A <i>jurisdictional question</i> is a question as to whether functions of a person as a government official under this Act or of an inspector under the <i>Occupational Health and Safety Act 2000</i> were or can be validly exercised or a question as to whether proceedings for an offence under this Act or the <i>Occupational Health and Safety Act 2000</i> were or can be validly instituted.	22 23 24 25 26 27
(4) A determination under this section applies in respect of functions exercised or purportedly exercised before or after the determination was made but not so as to affect court proceedings commenced before the determination was made.	28 29 30 31
(5) A determination under this section does not operate to result in a person committing an offence that the person would not have committed had the determination not been made.	32 33 34

(6)	A certificate of the Minister certifying as to a determination made by the Minister under this section is evidence of the Minister's determination and the date of the determination.	1 2 3
(7)	The Minister is to notify any other Minister administering the <i>Occupational Health and Safety Act 2000</i> of any determination made by the Minister under this section (but a failure to notify the other Minister does not affect the validity of the determination).	4 5 6 7
[2]	Section 127 Appointment of government officials	8
	Omit section 127 (2). Insert instead:	9
(2)	An instrument appointing a person under this section may limit the functions that the person has as a government official or under the <i>Occupational Health and Safety Act 2000</i> .	10 11 12
3.7	Mine Subsidence Compensation Act 1961 No 22	13
[1]	Section 4 Definitions	14
	Omit the definition of <i>Colliery holding</i> . Insert instead:	15
	<i>Colliery holding</i> has the same meaning as it has in the <i>Mining Act 1992</i> .	16 17
[2]	Section 4, definition of "Proprietor"	18
	Omit the definition. Insert instead:	19
	<i>Proprietor</i> means the lease holder of any lease for coal within a colliery holding and, where there is more than one lease holder, means each lease holder who is jointly and severally liable for the obligations under this Act.	20 21 22 23
3.8	Mining Amendment Act 2008 No 19	24
[1]	Schedule 1 Amendment of Mining Act 1992	25
	Omit Schedule 1 [108]–[113].	26
[2]	Schedule 1 [224]	27
	Omit "within the same colliery holding" from proposed section 261B (5).	28
	Insert instead "worked as a single mine, registered as part of a mine under section 163".	29 30
[3]	Schedule 2 Amendment of other Acts and instrument	31
	Omit Schedule 2.1.	32

3.9 Mining Regulation 2003	1
Clause 23	2
Omit the clause. Insert instead:	3
23 Register of mines	4
For the purposes of section 163 (6) of the Act, the prescribed office is the Maitland office of the Department.	5 6
3.10 Occupational Health and Safety Act 2000 No 40	7
[1] Section 47A Appointment of inspectors in connection with mining workplaces	8 9
Insert at the end of the section:	10
(2) The appointment of a person as a government official under the <i>Mine Health and Safety Act 2004</i> may limit the functions that the person has as an inspector under this Act.	11 12 13
[2] Section 47B Appointment of inspectors in connection with coal workplaces	14 15
Insert at the end of the section:	16
(2) The appointment of a person as a government official under the <i>Coal Mine Health and Safety Act 2002</i> may limit the functions that the person has as an inspector under this Act.	17 18 19
[3] Schedule 3 Savings, transitional and other provisions	20
Insert at the end of clause 1 (1):	21
<i>Coal Mine Health and Safety Amendment Act 2010</i>	22
[4] Schedule 3, clause 1 (2A)	23
Insert after clause 1 (2):	24
(2A) The regulations under subclause (1) may contain provisions of a savings or transitional nature consequent on the enactment of the <i>Coal Mine Health and Safety Amendment Act 2010</i> only to the extent that it amends this Act or affects the meaning of coal workplace , within the meaning of this Act, in relation to any period before, at or immediately after the commencement of Schedule 1 [11] to the <i>Coal Mine Health and Safety Amendment Act 2010</i> .	25 26 27 28 29 30 31 32

3.11 Petroleum (Onshore) Regulation 2007	1
Clause 24 Rate of royalty: Mining Act 1992 section 286	2
Omit clause 24 (3). Insert instead:	3
(3) In this clause:	4
<i>colliery holding</i> has the same meaning as it has in the <i>Mining Act 1992</i> .	5
<i>holding</i> means all land within a colliery holding that includes the land within the mining lease from which the petroleum is extracted.	6
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