

Work Health and Safety Legislation Amendment Act 2011 No 67

[2011-67]



New South Wales

Status Information

Currency of version

Repealed version for 2 January 2012 to 24 June 2013 (accessed 25 November 2024 at 10:56)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **See also**
[Work Health and Safety \(Mines\) Bill 2013](#)
- **Repeal**
The Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 25.6.2013.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Work Health and Safety Legislation Amendment Act 2011 No 67



New South Wales

An Act to amend the *Work Health and Safety Act 2011* to make further provision for the commencement, administration and operation of that Act; and to make consequential and other amendments to certain other Acts.

1 Name of Act

This Act is the *Work Health and Safety Legislation Amendment Act 2011*.

2 Commencement

- (1) Except as otherwise provided by this section, this Act commences on 1 January 2012 or on such later day as may be appointed by proclamation before 1 January 2012.
- (2) Schedules 1 [1] and 2 [14] and [15] commence on the date of assent to this Act.
- (3) Schedules 2 (except Schedule 2 [14] and [15]) and 3 commence on a day or days to be appointed by proclamation.

Schedule 1 (Repealed)

Schedule 2 Amendment of *Mine Health and Safety Act 2004 No 74*

[1] Section 3 Definitions

Omit the definition of **Board** from section 3 (1). Insert instead:

Board means the Mining Competence Board constituted by section 112.

[2] Section 3 (1), definition of “coal operation”

Insert in alphabetical order:

coal operation has the same meaning as in the *Coal Mine Health and Safety Act 2002*.

[3] Section 9 Act does not apply to coal operations

Insert “, except as provided by Part 9 (Competence standards)” after “applies”.

[4] Part 9, Division 2, heading

Omit the heading. Insert instead:

Division 2 **Mining Competence Board**

[5] Section 112 Mining Competence Board

Omit section 112 (1). Insert instead:

- (1) There is constituted by this Act a body corporate with the corporate name of the Mining Competence Board.

[6] Section 114 Membership of Board

Omit section 114 (1). Insert instead:

- (1) The Board is made up of the following persons appointed by the Minister:
- (a) the Chairperson of the Board (who is not to be an officer of the Department), and
 - (b) such number of persons as the Minister determines, selected in accordance with the regulations, to represent the interests of employers in the mining and coal mining industries, and
 - (c) such number of persons as the Minister determines, selected in accordance with the regulations, to represent the interests of employees in the mining and coal mining industries, and
 - (d) between 2 and 4 persons who have expertise in the development and assessment of competence of persons performing functions at mines or coal operations, and
 - (e) 2 officers of the Department.

[7] Section 116 Functions of Board

Insert “or the *Coal Mine Health and Safety Act 2002*” after “this Act” in section 116 (1).

[8] Section 116

Insert “or coal operations” after “mines” wherever occurring.

[9] Section 120 Power to make orders

Omit “The Minister may make orders” from section 120 (1).

Insert instead “The Minister or the Board may make orders”.

[10] Section 120 (1) (f)

Omit “rules”. Insert instead “orders”.

[11] Section 120 (1) (h)

Omit the paragraph. Insert instead:

(h) the declaration by the Minister that a person’s competence is not recognised (but this is not a matter for which an order of the Board can make provision),

[12] Section 120 (1A)

Insert after section 120 (1):

(1A) An order made by the Board has no effect to the extent that it is inconsistent with an order of the Minister under this section.

[13] Section 120 (2)

Insert “by the Minister” after “orders”.

[14], [15] (Repealed)

Schedule 3 Amendment of [Coal Mine Health and Safety Act 2002 No 129](#)

[1] Section 3 Definitions

Omit the definition of **Board**. Insert instead:

Board means the Mining Competence Board constituted by section 112 of the [Mine Health and Safety Act 2004](#).

[2] Part 9, Division 2 Coal Competence Board

Omit the Division.

[3] Section 135 Annual report

Omit the section.

[4] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Work Health and Safety Legislation Amendment Act 2011, but only to the extent that it amends this Act

[5] Schedule 3

Insert at the end of the Schedule:

Part 4 Provisions consequent on the enactment of *Work Health and Safety Legislation Amendment Act 2011*

28 Definitions

In this Part:

amending Act means the *Work Health and Safety Legislation Amendment Act 2011*.

former Board means the Coal Competence Board constituted by section 130 immediately before the repeal of that section by the amending Act.

new Board means the Mining Competence Board constituted by section 112 of the *Mine Health and Safety Act 2004* after the commencement of the amendment made by the amending Act to section 112 of the *Mine Health and Safety Act 2004*.

29 Dissolution of former Board

- (1) The former Board is dissolved on the repeal of section 130 by the amending Act.
- (2) On the dissolution of the former Board, a person who held office as a member of the former Board immediately before its dissolution ceases to hold office as such but is eligible (if otherwise qualified) to be appointed as a member of the new Board.
- (3) A person who ceases to hold office as a member of the former Board because of the operation of this clause is not entitled to be paid any remuneration or compensation because of ceasing to hold that office.

30 Actions of former Board

- (1) Anything done by the former Board before its dissolution that has any force or effect immediately before the former Board's dissolution is taken to have been done by the new Board.

(2) This clause extends to but is not limited to the following things done by the former Board:

- (a) an assessment of competence,
- (b) the conduct of an examination,
- (c) the grant, suspension or cancellation of, or the imposition of conditions on, a certificate of competence or exemption,
- (d) any approval given or appointment or recommendation made by the former Board.

31 Delegations to former Board

Any delegation to the former Board by the Minister that is in force under section 212 immediately before the dissolution of the former Board is taken to be a delegation to the new Board.

32 Annual report of former Board

The first annual report of the new Board under section 117 of the *Mine Health and Safety Act 2004* after the dissolution of the former Board is to include a report of the activities of the former Board during the preceding year.

33 Protection from liability

A reference in section 220 to a member of the Board includes a reference to a member of the former Board in relation to a matter or thing done or omitted to be done before the dissolution of the former Board.

Schedule 4 (Repealed)