



New South Wales

Mines Inspection Amendment Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Mines Inspection Act 1901* as follows:

- (a) to provide for positions and functions of general managers and production managers of mines,
- (b) to require a production manager who is the holder of a certificate of competency as production manager to undertake training to maintain the competencies required to discharge the duties of a production manager,
- (c) to provide for a board of examiners for shotfirers and related matters,
- (d) to incorporate certain provisions of the International Labour Organisation requirements contained in the *International Labour Organisation Convention No 176 (Convention concerning Safety and Health in Mines)* (the *Convention*),
- (e) to omit certain provisions that are no longer required,
- (f) to make other amendments of a minor or consequential nature.

The Bill makes consequential amendments to the *Mines Inspection General Rule 1994* (the *General Rule*) and the *Defamation Act 1974*.

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 *Mines Inspection Act 1901* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Mines Inspection General Rule 1994* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendment to the *Defamation Act 1974* set out in Schedule 3.

Schedule 1 Amendment of Mines Inspection Act 1901

Positions of “general manager” and “production manager”

Schedule 1 [2] inserts definitions of *general manager* and *production manager* in the Act. The general manager of a mine is the person who is nominated and approved to be the general manager of the mine in accordance with proposed section 5 of the Act. The general manager of a mine is responsible for the daily supervision, control and management of the mine. The production manager of a mine is the person who supervises the production operations at a mine (**Schedule 1 [2]** inserts a definition of *production operations*).

Provision is also made for the appointment of an acting general manager of a mine (**Schedule 1 [12]**, proposed section 5A). Production operations at a mine are to be supervised only by a person who is the holder of a certificate of competency as production manager, a certificate of service as production manager or a production manager’s permit granted in respect of the class of mine concerned. Provision is also made for the grant of production managers’ permits by the Chief Inspector of Mines (**Schedule 1 [12]**, proposed sections 5B and 5C). Certain functions of a general manager may be delegated. A production manager’s functions may be delegated only to a person who is qualified to be a production manager (**Schedule 1 [12]**, proposed section 5D).

(**Schedule 1 [7]**, [11], [13], [14], [16]–[18], [21]–[25], [28]–[32], [35], [38]–[45], [58], [59], [66], [68], [69]–[72], [77], [78], [81] and [82] make consequential amendments.)

Maintenance of competencies by production managers

Schedule 1 [20] inserts new Division 2A (proposed sections 18B–18D) in Part 2 of the Act containing the following provisions relating to the maintenance of competencies by production managers who hold certificates of competency as production manager:

- (a) Proposed section 18B provides that such a production manager must do the following:
 - (i) undertake professional training prescribed by the general rules to ensure maintenance of competencies required to discharge the duties of a production manager,
 - (ii) keep records prescribed by the general rules of any such training undertaken,
 - (iii) produce the records on demand to an inspector.

The Chief Inspector of Mines may by written notice require the production manager to provide evidence that the production manager has maintained the required competencies or to undertake specified additional training if the Chief Inspector is of the opinion that the production manager requires the additional training to discharge the duties of a production manager competently. Failure by the production manager to comply with a notice issued under the section is an offence.

- (b) Proposed section 18C makes it an offence for a person who holds a certificate of competency as production manager and who has not performed the duties of a production manager for a certain period to exercise the functions of a production manager without the written approval of the Chief Inspector.

The Chief Inspector of Mines may by written notice require the person to produce evidence that the person is competent to discharge the duties of a production manager or to undertake additional training required to enable the person to discharge the duties of a production manager competently.

- (c) Proposed section 18D allows the Chief Inspector to exempt persons from any or all of the requirements of the proposed Division.

Shotfirers

Schedule 1 [2] inserts a definition of *shotfirer* in the Act. A shotfirer means a person who is the holder of a current certificate of competency as shotfirer or a current shotfirer's permit.

Schedule 1 [20] inserts new Division 2B (proposed sections 18E–18K) in Part 2 of the Act which contains the following provisions in relation to shotfirers:

- (a) Proposed section 18E makes it an offence for a person to undertake blasting operations at a mine unless the person is a shotfirer. However, persons who are not shotfirers may be authorised by the general rules to undertake blasting operations or undertake blasting operations of a certain type. (**Schedule 1 [2]** inserts a definition of *blasting operations*.)
- (b) Proposed section 18F provides for a board of examiners of shotfirers to hold examinations for shotfirers and for the Minister to make rules in respect of matters relating to the board.
- (c) Proposed section 18G enables the Minister to grant a certificate of competency as shotfirer to an applicant who has satisfactorily passed the requisite examination conducted by the board.
- (d) Proposed section 18H makes provision in relation to certificates of competency as shotfirer granted outside New South Wales.
- (e) Proposed section 18I provides for the form of certificates and the particulars that must be specified in the certificates.
- (f) Proposed section 18J enables inspectors to issue shotfirers' permits that may be subject to conditions.
- (g) Proposed section 18K provides for the keeping of a register of certificates.

(**Schedule 1 [21]–[25]** and **[28]–[32]** make consequential amendments.)

Information on accidents, dangerous incidents and occupational diseases

Schedule 1 [48] amends section 40 to require certain information relating to certain accidents, dangerous incidents and occupational diseases to be included in the annual report of the Department of Mineral Resources. Article 5.2 (d) of the Convention requires the compilation and publication of statistics on such matters.

Plans to be made of proposed workings of a mine

Section 41 (1) of the Act currently requires, in certain cases, a plan to be prepared for a mine after operations at the mine have commenced that shows the workings of the mine. Article 5.5 of the Convention requires appropriate plans of workings of a mine to be prepared before the start of operations at the mine and for the plan to be revised to show any significant modifications to the workings that occur once operations have commenced. **Schedule 1**

[49] incorporates this requirement by replacing section 41 (1) of the Act with modifications requiring the plan to be prepared before operations at a mine commence and to be periodically revised.

(Schedule 1 [50]–[56] make consequential amendments.)

Risk management obligations

Schedule 1 [62] inserts new Division 3 (proposed section 46) in Part 4 of the Act which requires the general manager of a mine, as soon as is reasonably practicable, to identify and assess any risk associated with the safety and health of persons while employed at the mine and to eliminate the risk or, if that is not reasonably practicable, to minimise the risk. Failure to comply with the section is an offence. This provision incorporates Article 6 of the Convention which requires an employer to take preventive and protective measures at the mine concerned by assessing safety and health risks and dealing with the risks in a specified manner.

Notification of serious accidents, dangerous incidents and certain diseases

Schedule 1 [62] inserts new Division 4 (proposed sections 47–48) in Part 4 of the Act relating to the notification of serious accidents, dangerous incidents and certain diseases. The sections restate section 43 (Notification to be given of accidents in mines) of the Act so as to extend it to dangerous incidents and with certain modifications relating to:

- (a) the type of accidents of which notice must be given, and
- (b) the time within which, and persons to whom, notice must be given.

The Division contains the following provisions:

- (a) Proposed section 47 requires the owner or general manager of a mine to give notice to specified persons of any serious accident or dangerous incident that occurs. Oral notice must be given immediately, and written notice must be given within 24 hours, after the serious accident or dangerous incident occurs. (Schedule 1 [2] inserts in the Act definitions of *serious accident* and *dangerous incident*.)
- (b) Proposed section 47A provides for the preservation of the site of a serious accident or dangerous incident.
- (c) Proposed section 47B provides for the inspection of such sites.
- (d) Proposed section 47C provides that notice must be given to an inspector if a person employed at the mine has contracted a specified disease.

Explanatory note

- (e) Proposed section 47D provides that notice must be given to an inspector of any deaths resulting from injuries received in serious accidents or from certain diseases.
- (f) Proposed section 47E requires records to be kept of certain accidents occurring at a mine.
- (g) Proposed section 48 restates section 39 of the Act (that section deals with the preparation and publication of special reports in relation to incidents at mines causing the death of, or injury to, persons). The proposed section requires serious accidents or dangerous incidents to be investigated and reported on. Article 10 (d) of the Convention requires such matters to be investigated.

(Schedule 1 [46], [60], [67], [68], [73], [79] and [80] make consequential amendments.)

Other amendments

Schedule 1 [1], [3], [19], [26], [27], [36], [37] and [74]–[76] make amendments by way of statute law revision.

Schedule 1 [2] inserts definitions of *Department* and *Director-General* in the Act. (Schedule 1 [8], [47] and [57] make consequential amendments.)

Schedule 1 [4]–[6], [9] and [10] amend various definitions used in the Act to bring them up to date with current mining practice.

Schedule 1 [15] amends section 7 of the Act to make it clear that applicants for certificates of competency as production manager are required to produce evidence of their qualifications before the certificate is granted.

Schedule 1 [33] omits Division 1 of Part 3 of the Act which contains section 25 (Prohibition of payment of wages at public-houses etc) as the Division is obsolete.

Schedule 1 [34] omits section 26 (4) of the Act which deals with certain restrictions on the employment of inexperienced persons in certain mining operations as the provision is obsolete.

Schedule 1 [61] amends section 44 to make it clear that notice is to be given of the opening or abandonment of a mine at which any person is employed (currently the section requires notice to be given at any mine at which 2 or more persons are employed).

Schedule 1 [62] omits Divisions 3 (Boilers) and 5 (Lead poisoning) of Part 4 of the Act as these Divisions are obsolete.

Schedule 1 [63] omits Part 5 relating to the drainage of mines as the Part is no longer required. (Schedule 1 [83] makes a consequential amendment.)

Schedule 1 [64] enables general rules to be made in relation to matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for the purposes of the Act.

Schedule 1 [65] enables general rules to be made in relation to the keeping of registers for production managers' permits and shotfirers' permits and the issue of a duplicate permit in certain circumstances.

Schedule 1 [84]–[87] insert provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Amendment of the Mines Inspection General Rule 1994

Schedule 2 [1] amends clause 7 of the General Rule to require the general manager of a mine to do the following:

- (a) provide an effective communication system at the mine so that immediate communication is available with persons who are employed at the mine,
- (b) where practicable, provide two separate exits from each underground working place at the mine,
- (c) provide a system at the mine that enables the general manager, and the production manager, of a mine to be aware of the name of any person employed in an underground working place at the mine and, as far as is reasonably possible, the person's location in that place.

The amendment incorporates Articles 7 (a) and (d) and 10 (c) of the Convention.

Schedule 2 [2] inserts Part 7A in the General Rule to provide for health and safety at mines in relation to waste materials produced at mines. The amendment incorporates Article 5.4 (d) of the Convention in respect of requirements for the safe storage, transportation and disposal of waste produced at mines.

Schedule 2 [3] and **[4]** amend the definition of *emergency* in clause 55 of the General Rule to include foreseeable industrial or natural disasters. (**Schedule 2 [5]** makes a consequential amendment.)

Schedule 2 [6] amends clause 56 of the General Rule to require the general manager of a mine to ensure that any strategies or procedures for responses to emergencies at the mine are integrated with emergency response plans prepared by emergency services organisations for the area in which the mine is located. Article 8 of the Convention requires the preparation of emergency response plans in relation to such matters.

Mines Inspection Amendment Bill 1998

Explanatory note

Schedule 3 Amendment of Defamation Act 1974

Schedule 3 inserts proposed section 17U in the Act to provide a defence of absolute privilege in respect of the publication of a report referred to in section 48 of the *Mines Inspection Act 1901* relating to a serious accident or dangerous incident.

First print



New South Wales

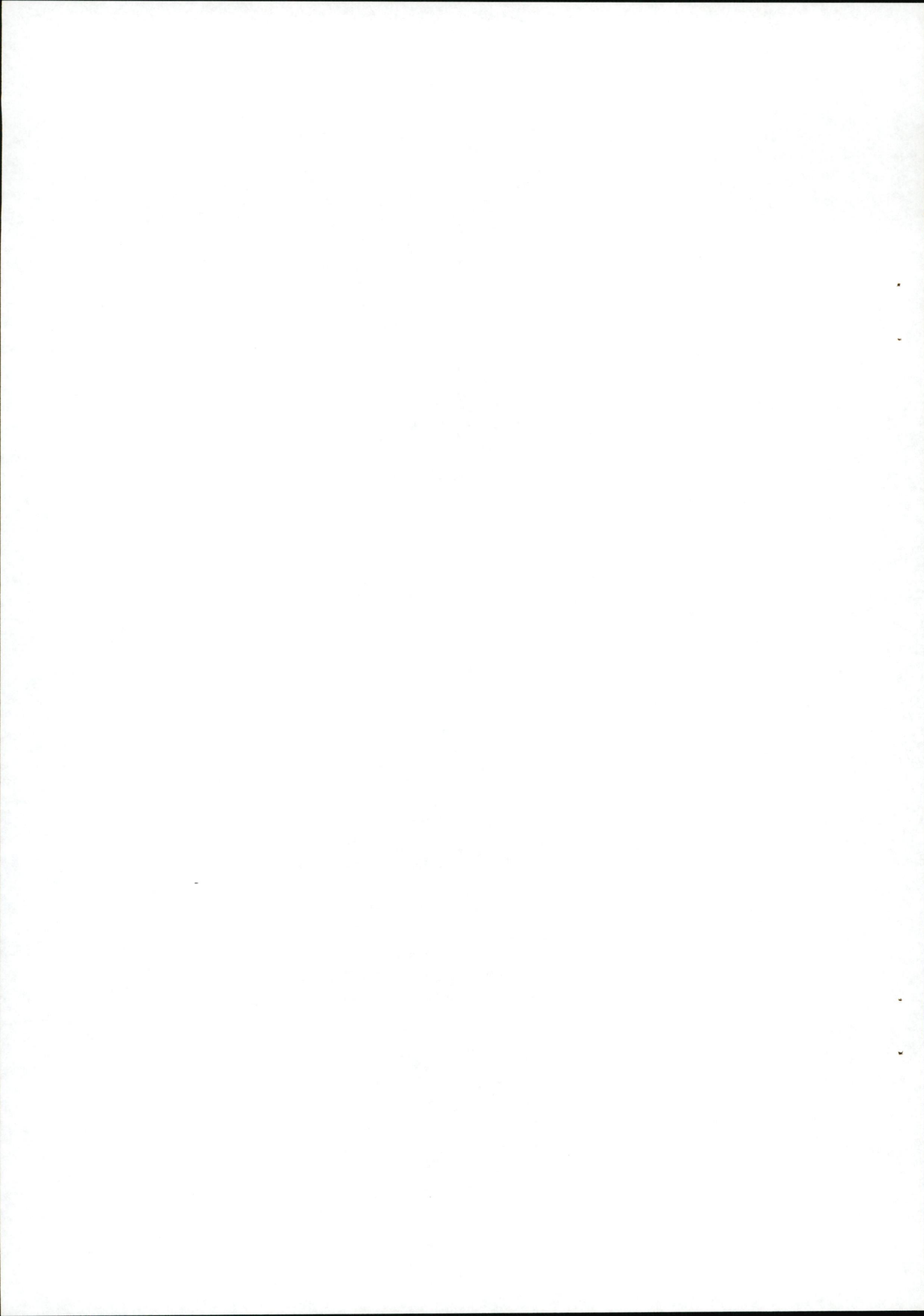
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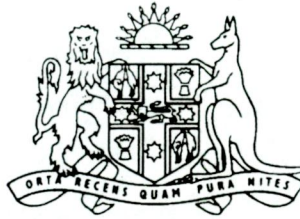
Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Mines Inspection Act 1901 No 75	2
4 Amendment of Mines Inspection General Rule 1994	2
5 Amendment of Defamation Act 1974 No 18	2

Schedules

1 Amendment of Mines Inspection Act 1901	3
2 Amendment of Mines Inspection General Rule 1994	39
3 Amendment of Defamation Act 1974	41





New South Wales

Mines Inspection Amendment Bill 1998

No. , 1998

A Bill for

An Act to amend the *Mines Inspection Act 1901* to make further provision with respect to the appointment of managers at mines (other than coal and shale mines) and the safety of persons at those mines; to amend the *Mines Inspection General Rule 1994* and the *Defamation Act 1974* consequentially; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Mines Inspection Amendment Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation. 5

3 Amendment of Mines Inspection Act 1901 No 75

The *Mines Inspection Act 1901* is amended as set out in Schedule 1.

4 Amendment of Mines Inspection General Rule 1994

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The *Mines Inspection General Rule 1994* is amended as set out in Schedule 2.

5 Amendment of Defamation Act 1974 No 18

The *Defamation Act 1974* is amended as set out in Schedule 3.

Schedule 1 Amendment of Mines Inspection Act 1901

(Section 3)

[1] Section 2 Division of Act

Omit the section.

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[2] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

blasting operations means any of the following:

- (a) the firing of charges of explosives at or about a mine,
- (b) the storage, manufacture, handling, conveyance or use of explosives at or about a mine,
- (c) the supervision of an activity referred to in paragraph (a) or (b).

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certificate of competency as production manager means a certificate of competency as production manager granted by the Minister under section 7.

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certificate of competency as shotfirer means a certificate of competency as shotfirer granted by the Minister under section 18G.

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certificate of service as production manager means a certificate of service as production manager granted by the Minister under section 8.

dangerous incident means an incident at a mine that has the potential to cause serious injury to a person at the mine or in the vicinity of the mine.

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Department means the Department of Mineral Resources.

Director-General means the Director-General of the Department.

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exercise of a function includes the performance of a duty.

function includes a power, authority or duty.

general manager of a mine means the person whose nomination as general manager of the mine has been approved by the Chief Inspector under section 5. 5

production manager of a mine means a person who supervises the production operations at the mine.

production manager's permit means a production manager's permit granted by the Chief Inspector under section 5C. 10

production operations includes development works carried out for the purposes of production operations at a mine.

serious accident means an accident that causes the death of, or serious injury to, a person: 15

- (a) at a mine, or
- (b) in the vicinity of a mine as the result of any operations at the mine.

serious injury means any of the following: 20

- (a) a fracture of the skull, jaw, spine, pelvis, arm, shoulder-blade, collar-bone, forearm, thigh, leg, knee-cap, ankle or ribs,
- (b) a dislocation of the shoulder, elbow, hip, knee or spine, 25
- (c) an amputation of the hand or foot or a substantial part of the hand or foot,
- (d) the loss of sight of an eye,
- (e) an internal haemorrhage requiring hospital treatment, 30
- (f) burns requiring hospital treatment,
- (g) asphyxia,
- (h) any other kind of injury prescribed by the general rules.

shotfirer means a person who is the holder of:

- (a) a certificate of competency as shotfirer, or
- (b) a shotfirer's permit,

that is in force.

shotfirer's permit means a shotfirer's permit granted by an inspector under section 18J. 5

[3] Section 4 (1), definition of "inspector"

Omit "*Public Service Act 1902*".

Insert instead "*Public Sector Management Act 1988*".

[4] Section 4 (1), definition of "mine" 10

Omit the definition. Insert instead:

mine is defined in section 4A.

[5] Section 4 (1), definition of "machinery"

Omit the definition. Insert instead:

machinery means any device or item of plant, whether fixed or mobile, (however powered) that is used: 15

- (a) to do work at or about a mine, or
- (b) for the treatment of any product of a mine.

[6] Section 4 (1), definition of "owner"

Insert ", subcontractor" after "contractor" wherever occurring. 20

[7] Section 4 (1), definition of "manager"

Omit the definition.

[8] Section 4 (1), definition of "the Under Secretary"

Omit the definition.

[9] Section 4 (1), definition of "treatment"

Omit the definition. Insert instead:

treatment means: 5

- (a) the crushing, grinding, classifying, reducing, smelting, concentrating, precipitating or separating of any product of a mine, or
- (b) any other process, or part of a process, for obtaining any metal or mineral from the product of a mine, or 10
- (c) the mixing of any product of a quarry with any substance so as to produce ready mix concrete or bitumen hot mix, or
- (d) the sorting, grading and preparation of recycled concrete, recycled brick, recycled bitumen, recycled stone or recycled rock to be blended with any product of a quarry. 15

[10] Section 4A

Insert after section 4: 20

4A Definition of "mine"

- (1) In this Act, *mine* means any aboveground or underground site where any of the following activities take place:
 - (a) exploration for metals and minerals, 25
 - (b) extraction of metals or minerals.

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- (2) Without limiting subsection (1), *mine* includes:
- (a) the treatment of metals or minerals extracted from a site referred to in subsection (1) if the treatment is carried out at a place at, adjoining or near the site, and 5
 - (b) any machinery, equipment, appliance or plant, whether moveable or not, or any building, laboratory, tunnel, drift, haul road or other structure or work, that is situated at a site referred to in subsection (1) and that is used in connection with an activity referred to in subsection (1), and 10
 - (c) any place where waste resulting from an activity referred to in subsection (1) is stacked, stored or treated if the place is at, adjoins or is near the site where the activity takes place, and 15
 - (d) any quarry and any ready mix concrete or bitumen hot mix plant that adjoins, and is in common ownership with, the quarry (whether or not the plant uses material excavated from the quarry in the manufacture of the concrete or bitumen), and 20
 - (e) any place on which treatment and separation plants are installed for the recovery and treatment of zircon, rutile, ilmenite, monazite and associated minerals, and
 - (f) any part of a site referred to in subsection (1) where environmental rehabilitation is being carried out (irrespective of whether mining operations at the site have been completed), and 25
 - (g) any abandoned mine (other than an abandoned mine used for the storage, treatment or disposal of waste that is unconnected with an activity referred to in subsection (1)), and 30
 - (h) any place where operations for the care, security and maintenance of a site referred to in subsection (1) are being carried out during any time when mining operations at the site are suspended, and 35
 - (i) any place where restoration, decommissioning or abandonment operations of a site referred to in subsection (1) are being carried out.
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[11] Part 2, heading and Division 1, heading

Omit the headings. Insert instead:

**Part 2 General managers, production managers,
engine-drivers and shotfirers**

Division 1 General managers and production managers 5

[12] Sections 5–5D

Omit sections 5 and 5A. Insert instead:

5 Appointment of general manager of mine

- (1) The owner of a mine must ensure that at all times there is a general manager of the mine whose nomination as general manager of the mine has been approved by the Chief Inspector in accordance with this section. 10
Maximum penalty: 20 penalty units and a further 0.5 penalty unit for each day the offence continues.
- (2) The owner of a mine is to nominate himself or herself or some other person to be the general manager of the mine. 15
- (3) The owner of a mine is to notify the Chief Inspector in writing of the nomination.
- (4) The nominated general manager becomes the general manager when the approval in writing of the Chief Inspector to the nomination is received by the owner of the mine. 20
- (5) The general manager of a mine must reside in its vicinity and is responsible for the daily supervision, control and management of the mine. 25
- (6) A person is not eligible to hold the position of general manager of a mine during any disqualification period imposed under section 19 (2) (f1) (ii).

5A Appointment of temporary general manager

- (1) The owner of a mine may appoint a competent person to act as general manager of the mine for a period of not more than 2 months (whether consecutive or non-consecutive) in any one year if the general manager of the mine is absent from the mine for recreational purposes or for any other reason. 5
- (2) A person must not be appointed as an acting general manager unless the appointment has been approved in writing by the Chief Inspector. 10
- Maximum penalty: 20 penalty units.
- (3) An acting general manager of a mine appointed and approved under this section has all the functions of the general manager of the mine while acting in the position and is taken to be the general manager of the mine during that period. 15

5B Production operations to be supervised by qualified person

- (1) The general manager of a mine must ensure that the production operations at the mine are supervised by a person who is qualified to be a production manager. 20
- Maximum penalty: 20 penalty units and a further 0.5 penalty unit for each day the offence continues.
- (2) Nothing in this section prevents the general manager of a mine from supervising the production operations at the mine if the general manager is qualified to be a production manager. 25
- (3) The general manager of a mine must notify the Chief Inspector in writing of the appointment of a production manager of the mine and of the details of the production manager's qualifications as soon as possible after the appointment is made. 30

Maximum penalty: 5 penalty units.

- (4) Except as provided by subsection (5), a person is qualified to be a production manager of a mine if the person is the holder of one of the following qualifications granted in respect of the relevant class of mine: 5
- (a) a certificate of competency as production manager,
 - (b) a certificate of service as production manager,
 - (c) a production manager's permit.
- (5) If the Chief Inspector has given a notice to the general manager of a mine directing that only a person who holds a qualification specified in the notice may supervise the production operations at the mine, a person is qualified to be production manager of the mine only if the person is the holder of the qualification specified in the notice. 10 15
- (6) The Chief Inspector may give a notice under subsection (5) to the general manager of a mine only if the Chief Inspector is of the opinion that, having regard to the location of the mine, the complexity of operations at the mine or the nature of the material mined, special knowledge or skill is required to supervise the production operations at the mine. 20

5C Chief Inspector may grant production managers' permits

- (1) On application in writing to the Chief Inspector and payment of such fee as the Minister may approve, the Chief Inspector may grant a production manager's permit to a person that authorises the person to supervise the production operations at a particular mine. 25
- (2) The Chief Inspector must not grant a production manager's permit to a person unless the Chief Inspector: 30
- (a) is satisfied that the person has had sufficient experience to supervise the production operations at the mine concerned, and

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- (b) in the case of a mine at which more than 20 persons are employed:
- (i) is of the opinion that, having regard to the location of the mine, or the nature of the material mined, minimal knowledge or skill is required to supervise the production operations at the mine, or 5
 - (ii) is satisfied that the person will shortly sit for the requisite examination for the grant of a certificate of competency as production manager. 10
- (3) A production manager's permit is subject to such conditions as are specified in the permit and, if subject to conditions, has effect only while the conditions are complied with. 15
- (4) The Chief Inspector may, by written notice, vary a production manager's permit.
- (5) A person whose production manager's permit is varied under subsection (4) may apply in writing to the Director-General, within 4 weeks of receiving notice that the permit has been varied, for a review of the decision. The decision of the Director-General on the matter is final. 20
- (6) The Director-General is to give written notice as soon as possible to the person concerned of the Director-General's decision under subsection (5). 25
- (7) A person who is the holder of a production manager's permit must return the permit to the Chief Inspector:
- (a) within one month of ceasing to supervise the production operations at the mine in respect of which the permit was granted—for cancellation, or 30
 - (b) not later than 4 weeks after receiving notice that the permit has been varied if the person has not applied for a review under subsection (5)—for the permit to be endorsed to show the variation, or 35
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- (c) immediately after receiving notice that the Director-General has confirmed the decision of the Chief Inspector to vary the permit—for the permit to be endorsed to show the variation.

Maximum penalty (subsection (7)): 5 penalty units. 5

5D Delegation by general manager

- (1) The general manager of a mine may, by instrument in writing, delegate to a person employed at the mine any function conferred or imposed on the general manager by or under this Act other than: 10
 - (a) this power of delegation, or
 - (b) any function prescribed by the general rules for the purposes of this paragraph.
- (2) The supervision of the production operations at a mine may be delegated only to a person who is qualified to be a production manager as referred to in section 5B (4) or (5), as the case requires. 15
- (3) A delegation of the supervision of the production operations at a mine is revoked if the person to whom the delegation is made ceases to be qualified to be the production manager of the mine. 20

[13] Sections 6 (1), 8 (1), 9, 11 and 32 (5) (a) (i)

Omit “managers” wherever occurring.
Insert instead “production managers”.

[14] Sections 7, 8 (1) and 32 (5) (a) (i)

Omit “manager” wherever occurring.
Insert instead “production manager”.

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[15] Section 7 Grant of certificates of competency

Insert “qualifications,” after “sobriety,” in section 7 (1).

[16] Sections 8 (2) (c), 9 (2) and 11

Omit "manager granted under this Act" wherever occurring.
 Insert instead "production manager".

[17] Section 9 Certificates granted outside New South Wales

Omit "manager" from section 9 (1).
 Insert "production manager (however described)".

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[18] Section 10 Form of certificates

Omit "managers granted under this Act".
 Insert instead "production manager".

[19] Section 13 Board of examiners for engine-drivers

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Omit "prescribing" from section 13 (2) (e).
 Insert instead "regulating".

[20] Part 2, Divisions 2A and 2B

Insert after section 18A:

Division 2A Maintenance of competencies by holders of certificates of competency as production manager

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18B Production manager to undertake training to maintain competencies

- (1) This section applies to a person who: 20
- (a) holds a certificate of competency as production manager, and
 - (b) is the production manager of a mine.

- (2) Any person to whom this section applies must undertake the training prescribed by the general rules to ensure that production managers maintain the competencies required to discharge the duties of a production manager. 25

Maximum penalty: 20 penalty units.

- (3) Any person to whom this section applies must:
- (a) keep the records prescribed by the general rules of any training undertaken by the person for the purposes of this section, and
 - (b) make available, on request, any such record for inspection by an inspector. 5
- Maximum penalty: 20 penalty units.
- (4) The Chief Inspector may, by written notice, require any person to whom this section applies to provide (in the manner, and within the time, specified in the notice) evidence that the person has maintained the competencies required to discharge the duties of a production manager. 10
- (5) The Chief Inspector may, by written notice, require any person to whom this section applies to undertake such additional training as may be specified in the notice (within the time specified in the notice) if the Chief Inspector is of the opinion that the person requires the additional training to maintain the competencies required to discharge the duties of a production manager. 15
20
- (6) A person must not fail, without reasonable excuse, to comply with a notice given to the person under this section.
- Maximum penalty (subsection (6)): 20 penalty units.

18C Production manager to provide evidence of competencies after absence 25

- (1) This section applies to a person who:
- (a) holds a certificate of competency as production manager, and
 - (b) has not performed the duties of a production manager for 10 years (or, if another period is prescribed by the general rules, that other period). 30
- (2) Any person to whom this section applies must not exercise the functions of a production manager without the approval in writing of the Chief Inspector. 35
- Maximum penalty: 20 penalty units.

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- (3) Application for an approval referred to in subsection (2) is to be made in writing to the Chief Inspector.
- (4) The Chief Inspector must not give an approval referred to in subsection (2) unless satisfied that the person concerned is competent to discharge the duties of a production manager. 5
- (5) The Chief Inspector may, by written notice, require any person who has applied for an approval referred to in subsection (2) to provide (in the manner, and within the time, specified in the notice) evidence that the person is competent to discharge the duties of a production manager. 10
- (6) The Chief Inspector may, by written notice, require any person who has applied for an approval referred to in subsection (2) to undertake such additional training as may be specified in the notice (within the time specified in the notice) if the Chief Inspector is of the opinion that the person requires the additional training to discharge the duties of a production manager competently. 15
- 18D Exemptions** 20
- (1) The Chief Inspector may, by written notice to a person, exempt the person from the operation of all or any of the provisions of this Division.
- (2) An exemption:
- (a) may be given unconditionally or subject to conditions, and 25
- (b) if subject to conditions, has effect only while the conditions are complied with.
- (3) The Chief Inspector may, by written notice, vary or revoke an exemption under this section. 30
- Division 2B Shotfirers**
- 18E Blasting operations to be undertaken by qualified persons**
- (1) A person must not undertake blasting operations at a mine unless the person is a shotfirer. 35
- Maximum penalty: 20 penalty units.
-

- (2) The general manager of a mine must ensure that any person who undertakes blasting operations at the mine is a shotfirer.
Maximum penalty: 20 penalty units.
- (3) Subsections (1) and (2) do not apply to the carrying out of blasting operations: 5
- (a) by a person who is, or belongs to a class of persons, authorised by the general rules to carry out blasting operations, or
 - (b) of a class or classes prescribed by the general rules. 10

18F Board of examiners for shotfirers

- (1) The Minister is to appoint fit persons to act as a board of examiners of shotfirers.
- (2) The board of examiners of shotfirers may hold examinations and examine applicants for certificates of competency as shotfirers. 15
- (3) The Minister may make rules that are to be observed by the board of examiners of shotfirers for or with respect to the following: 20
- (a) regulating the proceedings of the board,
 - (b) prescribing the places and times of holding examinations,
 - (c) prescribing the remuneration of members of the board, 25
 - (d) prescribing the fee for an examination,
 - (e) regulating the conduct of examinations,
 - (f) prescribing the qualifications of applicants for examination.
- (4) Rules made under subsection (3) may be made so as to apply differently in respect of different classes of blasting operations or any other matter specified in the rules. 30

18G Grant of certificates of competency as shotfirers

The Minister is to grant a certificate of competency as shotfirer to an applicant who is reported by the board of examiners of shotfirers to have satisfactorily passed the requisite examination conducted by the board.

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18H Certificates granted outside New South Wales

(1) Any certificate of competency as shotfirer granted by any duly constituted and recognised authority outside New South Wales may be approved by the board of examiners of shotfirers if the holder produces the certificate and gives satisfactory evidence to the board of the holder's sobriety, general good conduct and bona fides.

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(2) Every such certificate so approved is taken to be equivalent in all respects to a certificate of competency as shotfirer and the holder may be registered on payment of such fee as the Minister may approve.

15

18I Form of certificates

(1) A certificate of competency as shotfirer must be in such form as the Minister may direct.

20

(2) Each certificate must specify the name, and the place and date of birth, of the person to whom the certificate is granted.

18J Inspector may grant shotfirers' permits

(1) On application in writing to an inspector and payment of such fee as the Minister may approve, the inspector may grant a shotfirer's permit to a person who, in the opinion of the inspector, is appropriately qualified to carry out blasting operations at a mine.

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(2) A shotfirer's permit is subject to such conditions as are specified in the permit and, if subject to conditions, has effect only while the conditions are complied with.

30

- (3) An inspector may, by written notice, vary or cancel a shotfirer's permit.
- (4) A person whose shotfirer's permit is varied or cancelled under subsection (3) may apply in writing to the Director-General, within 4 weeks of receiving notice that the permit has been varied or cancelled, for a review of the decision. The decision of the Director-General on the matter is final. 5
- (5) The Director-General is to give written notice as soon as possible to the person concerned of the Director-General's decision under subsection (4). 10
- (6) A person who is the holder of a shotfirer's permit must return the permit to the inspector for the area in which the mine concerned is located:
 - (a) within one month of ceasing to carry out blasting operations at the mine—for cancellation, or 15
 - (b) not later than 4 weeks after receiving notice that the permit has been varied or cancelled if the person has not applied for a review under subsection (4)—for the permit to be endorsed to show the variation or for cancellation, as the case requires, or 20
 - (c) immediately after receiving notice that the Director-General has confirmed the decision of the Chief Inspector to vary or cancel the permit—for the permit to be endorsed to show the variation or for cancellation, as the case requires. 25

Maximum penalty (subsection (6)): 5 penalty units.

18K Register of certificates

A register of the holders of certificates of competency as shotfirer, and of certificates approved by the board of examiners of shotfirers, must be kept by such person and in such manner as the Minister may direct. 30

[21] Part 2, Division 3, heading

Omit the heading. Insert instead:

**Division 3 General managers, production managers,
engine-drivers and shotfirers**

[22] Section 19 Inquiry into conduct of general manager, production manager, engine-driver or shotfirer 5

Omit "If at any time representation is made to the Minister by an inspector that any manager or engine-driver is by reason of incompetency or negligence, unfit to discharge the manager's or engine-driver's duties, or has been convicted of an offence against this Act (not being an offence under section 18A), the Minister may cause inquiry to be made into the conduct of the manager, or engine-driver, and with respect to every such inquiry the following provisions shall have effect:" 10

Insert instead: 15

(1) The Minister may cause an inquiry to be made into the conduct of a general manager, production manager, engine-driver, or shotfirer (being the holder of a certificate of competency as shotfirer), if at any time representation is made to the Minister by an inspector that: 20

(a) the general manager, production manager, engine-driver or shotfirer is unfit to discharge the duties of the position because of incompetency or negligence, or 25

(b) the general manager, production manager, engine-driver or shotfirer has been convicted of an offence against this Act (not being an offence under section 18A), or

(c) in the case of a production manager who is the holder of a certificate of competency as production manager—the production manager has failed to demonstrate that he or she has maintained 30

the competencies required to discharge the production manager's duties or has failed to undertake additional training required by the Chief Inspector.

- (2) The following provisions have effect with respect to any such inquiry: 5

[23] Section 19 (2) (b) and (d) (as amended by item [22])

Omit "manager, or engine-driver" wherever occurring.
Insert instead "general manager, production manager, engine-driver or shotfirer". 10

[24] Section 19 (2) (d) (as amended by item [22])

Omit "manager or engine-driver".
Insert instead "general manager, production manager, engine-driver or shotfirer".

[25] Section 19 (2) (f)–(g1) 15

Omit section 19 (2) (f) and (g) (as amended by item [22]).
Insert instead:

- (f) The Court may take action under paragraph (f1) if the Court finds that:
- (i) a general manager, production manager, engine-driver or shotfirer is unfit to discharge the duties of the position because of incompetency or negligence, or of having been convicted of any offence against this Act, or 20
25
 - (ii) in the case of a production manager who is the holder of a certificate of competency as production manager—the production manager is unfit to discharge his or her duties because of failure to demonstrate that he or she has maintained the competencies required to discharge those duties or has failed to undertake additional training required by the Chief Inspector. 30

- (f1) If the Court makes a finding referred to in paragraph (f), the Court may:
 - (i) in the case of a production manager, engine-driver or shotfirer—cancel or suspend the person’s certificate or permit, or 5
 - (ii) in the case of a general manager—cancel the approval of the general manager’s nomination under section 5 and disqualify the general manager from holding the position of general manager of a mine permanently or for a specified period of time. 10
- (g) The Court may, if it thinks fit, require a production manager, engine-driver or shotfirer to deliver up the certificate or permit concerned. Such a person is liable to a fine not exceeding 2 penalty units if the person fails to satisfy the Court of a reasonable excuse for failing to deliver up the certificate or permit. 15
- (g1) The Court may hold any certificate or permit so delivered up until the conclusion of the inquiry and must then either restore, cancel or suspend the certificate or permit according to its judgment on the case. 20

[26] Section 19 (2) (h) (as amended by item [22]) 25

Omit “Court of Petty Sessions”. Insert instead “Local Court”.

[27] Section 20 Costs and expenses of inquiry

Omit “any Stipendiary Magistrate or any two Justices of the Peace in Petty Sessions, as if such costs and expenses were a fine imposed by that Court of Petty Sessions” from section 20 (1). 30
 Insert instead “any Local Court, as if such costs and expenses were a fine imposed by the Local Court”.

[28] Section 21 Record of cancellation of certificate and restoration in certain cases

Omit "certificate of a manager or engine-driver" from section 21 (1).

Insert instead "certificate of a production manager, engine-driver or shotfirer". 5

[29] Section 21 (2)

Omit "board of examiners of managers, or the board of examiners of engine-drivers".

Insert instead "board of examiners of production managers, the board of examiners of engine-drivers or the board of examiners of shotfirers". 10

[30] Section 23 Expenses in relation to certificates and permits and application of fees

Omit "in carrying into effect the provisions of this Act with respect to certificates of competency or service" from section 23 (1). 15

Insert instead "or inspectors in carrying into effect the provisions of this Act with respect to certificates of competency, certificates of service or permits".

[31] Section 23 (2)

20

Omit "holders of certificates, or for a copy of a certificate".

Insert instead "holders of certificates or permits, or for a copy of a certificate or permit".

[32] Section 24 Penalty for forgery or false declaration

Omit "manager, or engine-driver" from section 24 (c).

25

Insert instead "general manager, production manager, engine-driver or shotfirer".

[33] Part 3, Division 1

Omit the Division.

[34] Section 26 Persons who must not be employed in mines

Omit section 26 (4).

[35] Sections 28–31, 37A, 41 (2), (4), (5) and (6), 44, 57 (b), 58 (3) (b), 65 and 72

5

Omit “manager” wherever occurring.
Insert instead “general manager”.

[36] Section 32 Appointment of inspectors

Omit “*Public Service Act 1902*” from section 32 (1).
Insert instead “*Public Sector Management Act 1988*”.

10

[37] Section 32 (5)

Omit “Department of Mines” wherever occurring.
Insert instead “Director-General”.

[38] Section 34 Disqualification of persons as inspectors

15

Omit “manager”.
Insert instead “general manager, production manager”.

[39] Section 34

Omit “managers”. Insert instead “general managers”.

[40] Section 36 Powers of inspector

Omit "manager".

Insert instead "general manager or production manager".

[41] Section 37 Notice to be given of cause of danger

Omit "by the manager" from section 37 (1).

5

[42] Section 37 (1)

Omit "or manager" wherever occurring.

Insert instead "or general manager".

[43] Section 38 Notice and directions of inspector to be entered in book

10

Omit "the owner or manager".

Insert instead "the owner or general manager".

[44] Section 38

Omit "signed by the manager".

Insert instead "signed by the general manager and by the production manager if the general manager is not also the production manager".

15

[45] Section 38

Omit "Every owner or manager".

Insert instead "Every owner, general manager or production manager".

20

[46] Section 39 Special report of inspector

Omit the section.

[47] Section 40 Annual Reports

Omit "of Mines".

[48] Section 40 (2)

Insert at the end of section 40:

- (2) Without limiting subsection (1), the annual report is to include information of a kind required by the general rules in relation to the following matters for the period covered by the report: 5
 - (a) accidents of a class or classes prescribed by the general rules, 10
 - (b) dangerous incidents at mines,
 - (c) occupational diseases resulting from employment at a mine.

[49] Section 41 Plans to be furnished

Omit section 41 (1). Insert instead: 15

- (1) This section applies to:
 - (a) a mine at which 20 or more persons are employed, and
 - (b) a mine at which less than 20 persons are employed, if the Chief Inspector has advised the general manager of the mine in writing that this section applies to the mine. 20
- (1A) The owner or general manager of a mine to which this section applies must, before the commencement of any mining operations at the mine after the commencement of this subsection, cause an accurate plan of the proposed workings of the mine to be prepared in accordance with this section by: 25
 - (a) a qualified mining engineer, or

- (b) a production manager, or
 - (c) a mining surveyor authorised by the Chief Inspector.
- (1B) The plan must include any previous workings at the mine if any part of the mine has been worked in the past or if the mine was an abandoned mine. 5
- (1C) The plan must be drawn to a scale showing a distance of not more than 1:1 250 unless the Chief Inspector, in writing, permits the plan to be drawn to another scale.
- (1D) The plan must be revised, if necessary, every 3 months to show any significant changes in respect of the workings that have been carried out, or the workings that are proposed to be carried out, at the mine. 10
- (1E) The plan, or plan as revised from time to time, must be deposited at the office of the mine and must be produced, on request, to an inspector or to any other person authorised in writing by the Chief Inspector to inspect it. 15
- (1F) The owner or general manager of the mine must, if requested by an inspector or person authorised by the Chief Inspector: 20
- (a) mark on the plan, to the best of the owner's or general manager's ability, the progress of the workings of the mine up to the time at which the plan is produced to the inspector or person, and
 - (b) allow the inspector or person to examine the plan and to take a copy of it. 25
- (1G) The owner or general manager of a mine must, if requested to do so by the Chief Inspector by notice in writing, provide an inspector with a copy of a plan (or latest revision of a plan) as deposited at the office of the mine within the time specified in the notice. 30
- (1H) An inspector must file any copy of a plan provided to the inspector in accordance with subsection (1G) in the records of the Department.

[50] Section 41 (2) and (4)

Omit "Minister" wherever occurring.
Insert instead "Chief Inspector".

[51] Section 41 (3)

Omit the subsection. Insert instead:

5

(3) The owner or general manager of a mine is guilty of an offence against this Act if the owner or general manager:

(a) fails to cause a plan to be prepared in accordance with subsection (1A) or to be revised in accordance with subsection (1D), or

10

(b) fails to deposit a plan or a revised plan in accordance with subsection (1E), or

(c) refuses or fails to produce a full and accurate plan in response to a request under subsection (1E), (1F) or 1G), or

15

(d) fails to comply fully with a request under subsection (1E), (1F) or (1G).

Maximum penalty: 10 penalty units.

(3A) The owner or general manager of a mine is not guilty of an offence against this Act of failing to produce a full and accurate plan if the owner or general manager shows that he or she did not know or could not reasonably have known that the plan was not a full and accurate plan.

20

[52] Section 41 (4), (5) and (6)

Omit "and sections" wherever occurring.

25

[53] Section 41 (4)

Omit "the workings".
Insert instead "the workings that have been carried out or that are proposed to be carried out".

- [54] Section 41 (4)**
Insert "all" before "the mine workings".
- [55] Section 41 (6)**
Omit "subsection (1)".
Insert instead "this section". 5
- [56] Section 41 (7)**
Insert after section 41 (6):
(7) A reference in this section to a plan of a mine includes a reference to sections of the workings of the mine and to correct copies or tracings of any original plan and sections. 10
- [57] Sections 42A (2) and 78**
Omit "Under Secretary" wherever occurring.
Insert instead "Director-General".
- [58] Section 42B Drillholes** 15
Omit "manager" wherever occurring.
Insert instead "production manager".
- [59] Section 42B (1)**
Omit "manager's".
Insert instead "production manager's". 20
- [60] Section 43 Notice to be given of accidents in mines**
Omit the section.
- [61] Section 44 Notice to be given of opening and abandonment of mine**
Omit "two or more persons are". Insert instead "any person is". 25

[62] Part 4, Divisions 3 and 4

Omit Divisions 3–5. Insert instead:

Division 3 Risk management strategies

46 Risk management strategies

The general manager of a mine must as soon as is reasonably practicable: 5

- (a) identify and assess any risk associated with the safety and health of persons while employed at the mine, and
- (b) eliminate the risk or, if it is not reasonably practicable to eliminate the risk, minimise the risk to the fullest extent that is reasonably practicable by measures that include the design of safe work systems. 10

Maximum penalty: 20 penalty units. 15

Division 4 Serious accidents, dangerous incidents and certain diseases

47 Notification of serious accidents or dangerous incidents

(1) If a serious accident or dangerous incident occurs, the owner or general manager of the mine concerned must immediately give oral notice of the accident or incident to the following: 20

- (a) an inspector,
- (b) the officer in charge of the nearest police station,
- (c) the person in charge of the nearest office of the State Emergency Service. 25

(2) Within 24 hours after a serious accident or dangerous incident occurs, the owner or general manager of the mine concerned must send a written notice (in a form approved by the Chief Inspector) to the inspector to whom oral notice was given under subsection (1) setting out details of the following: 30

- (a) in the case of a serious accident:
 - (i) the nature of the accident, and
 - (ii) the name of any person killed or injured, and
 - (iii) the number of persons killed, and 5
 - (iv) the number of persons otherwise injured and a description of the injuries,
 - (b) in the case of a dangerous incident—the nature of the incident.
- (3) The owner or general manager of a mine who fails, without reasonable excuse, to give notice in accordance with this section is guilty of an offence. 10
- Maximum penalty (subsection (3)): 10 penalty units.
- 47A Serious accident or dangerous incident site not to be disturbed** 15
- (1) The owner or general manager of the mine concerned must ensure that the place where a serious accident or dangerous incident occurred is left as it was immediately after the accident until:
 - (a) the expiration of 3 days after the notice was given under section 47 (1), or 20
 - (b) a visit to the place by an inspector, whichever occurs first.
- Maximum penalty: 10 penalty units.
- (2) This section does not apply if compliance with the section would tend to increase or continue a danger or would unnecessarily impede the working of the mine. 25
- 47B Inspection of serious accident or dangerous incident site**
- (1) After a serious accident or dangerous incident occurs, the general manager of the mine concerned must permit: 30
 - (a) a representative of the persons employed at the mine (who is to be one of the persons so employed), and

(b) a check inspector,

to make an inspection of the place where the accident or incident occurred as soon as the inspection can safely be made.

Maximum penalty: 10 penalty units.

5

(2) The inspection is to be made in company with an inspector if an inspector is available.

(3) Before leaving the mine, the representative and check inspector are to report the result of their inspection in a book to be kept at the mine for the purpose.

10

47C Notification of certain diseases

The owner or general manager of a mine must send a written notice to an inspector that a person employed at the mine is suffering from silicosis, pneumoconiosis or any other pathological condition of the pulmonary organs within 7 days of the owner or general manager having become aware that the person is so suffering.

15

Maximum penalty: 10 penalty units.

47D Notification of death resulting from serious accident or disease

20

The owner or general manager of the mine concerned must, within 24 hours of the owner or general manager having become aware of the fact, send a written notice to an inspector if:

(a) a person dies as the result of an injury received in a serious accident, or

25

(b) a person employed at the mine dies of a pathological condition referred to in section 47C.

Maximum penalty: 10 penalty units.

47E Records to be kept of certain accidents

30

(1) The general manager of a mine must keep a separate record for each month containing the following information in relation to accidents of a class or classes prescribed by the general rules:

- (a) the total number of such accidents occurring during the month,
 - (b) the total number of persons (including contractors and subcontractors) employed or working at the mine during the month, 5
 - (c) the total number of hours worked during the month by those persons.
- (2) The record must be in a form approved by the Chief Inspector.
 - (3) The general manager of a mine must make available, on request, any such record for inspection by an inspector. 10
 - (4) The general manager of a mine who fails, without reasonable excuse, to comply with a requirement of this section is guilty of an offence.
- Maximum penalty (subsection (4)): 10 penalty units. 15

48 Special report of inspector

- (1) The Minister is to direct an inspector to investigate and make a special report with respect to any serious accident or dangerous incident.
- (2) The Minister is to give the direction immediately after the serious accident or dangerous incident has occurred. 20
- (3) The Minister may cause the report to be made public at such time and in such manner as the Minister thinks fit.

[63] Part 5 Drainage of mines

Omit the Part. 25

[64] Section 56 General rules

Insert as section 56 (1) (a):

- (a) make general rules, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act, and 30

[65] Section 56 (1) (c) (vi)–(viii)

Insert after section 56 (1) (c) (v):

, or

- (vi) the keeping of a register of holders of production managers' permits and the information to be contained in the register, or 5
- (vii) the keeping of a register of holders of shotfirers' permits and the information to be contained in the register, or 10
- (viii) the replacement of production managers' permits or shotfirers' permits that have been lost, damaged or stolen and the fee to be paid for a duplicate permit.

[66] Section 57 Non-compliance with rules 15

Insert after section 57 (b):

, and

- (c) if the offence relates to the production operations at the mine—the production manager is guilty of an offence against this Act unless the production manager proves that he or she had taken all reasonable means, by enforcing the rules as regulations for the working of the mine to the best of his or her power, so as to prevent such contravention or non-compliance. 20 25

[67] Section 58 Special rules for certain mines

Omit “dangerous accidents” from section 58 (1).

Insert instead “serious accidents or dangerous incidents”.

[68] Section 58 (3) (c)

Insert after section 58 (3) (b):

, and

- (c) if the offence relates to the production operations at the mine—the production manager is guilty of an offence against this Act unless the production manager proves that he or she had taken all reasonable means, by enforcing the rules as regulations for the working of the mine to the best of his or her power, so as to prevent such contravention or non-compliance. 5
10

[69] Section 67 Penalty for offences against Act

Omit “other than an owner, or manager,” from section 67 (1).
Insert instead “(other than an owner, general manager or production manager)”. 15

[70] Section 67 (1)

Omit “in the case of an owner or manager”.
Insert instead “in the case of an owner, general manager or production manager”.

[71] Section 67 (2) 20

Omit “or manager”.
Insert instead “, general manager or production manager”.

[72] Section 68 Imprisonment for wilful neglect, endangering life or limb

Omit “owner, or manager”. 25
Insert instead “owner, general manager or production manager”.

[73] Section 68

Omit "serious personal injury to any such persons, or to cause a dangerous accident".

Insert instead "a serious accident or dangerous incident".

[74] Section 69 Proceedings for offences

5

Omit "court of petty sessions held before a stipendiary magistrate" from section 69 (1).

Insert instead "Local Court constituted by a Magistrate".

[75] Section 69 (2)

Omit "court of petty sessions held before a stipendiary magistrate".

10

Insert instead "Local Court".

[76] Section 69 (5)

Omit "court of petty sessions". Insert instead "Local Court".

[77] Section 71 Prosecution of owners, general managers and others

Omit "owner or manager" wherever occurring from section 71 (1).

15

Insert instead "owner, general manager or production manager".

[78] Section 71 (2)

Omit "owner or manager or an employee of a mine if satisfied that the owner, manager".

Insert instead "owner, general manager, production manager or an employee of a mine if satisfied that the owner, general manager, production manager".

20

[79] Section 74 Application of fines

Omit "explosion or accident" wherever occurring.
Insert instead "serious accident or dangerous incident".

[80] Section 74

Omit "explosion, accident" wherever occurring.
Insert instead "serious accident, dangerous incident".

5

[81] Section 80 Entry to ascertain if encroachment exists

Omit "owner and manager" wherever occurring.
Insert instead "owner, general manager and production manager".

[82] Section 80 (4)

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Omit "owner or manager".
Insert instead "owner, general manager or production manager".

[83] Schedules 1 and 2

Omit the Schedules.

[84] Schedule 3, heading

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Omit the heading. Insert instead:

Schedule 3 Savings, transitional and other provisions

[85] Schedule 3

Renumber clause 1 as clause 1A.

[86] Schedule 3, Parts 1 and 2

Insert before clause 1A (as renumbered by item [85]):

Part 1 Preliminary**1 Regulations**

- | | | |
|-----|---|----|
| (1) | The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

<i>Mines Inspection Amendment Act 1998</i> | 5 |
| (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. | 10 |
| (3) | To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: | |
| (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 | 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. | 20 |

Part 2 Provisions consequent on enactment of Mines Inspection (Amendment) Act 1962**[87] Schedule 3, Part 3** 25

Insert after clause 1A (as renumbered by item [85]):

Part 3 Provisions consequent on enactment of Mines Inspection Amendment Act 1998**2 Definition**

In this Part, *amending Act* means the *Mines Inspection Amendment Act 1998*. 30

3 Certificates of competency as shotfirer

A certificate of competency as shotfirer granted in accordance with the general rules before the commencement of section 18G and in force immediately before that commencement is taken to be a certificate of competency as shotfirer granted under section 18G. 5

4 Certificates of competency as manager

A certificate of competency as manager granted under this Act and in force immediately before the amendment of section 7 by the amending Act is taken to be a certificate of competency as production manager. 10

5 Certificates of services as manager

A certificate of service as manager granted under this Act and in force immediately before the amendment of section 8 by the amending Act is taken to be a certificate of service as production manager. 15

6 Register of certificates of competency or service as manager

The register kept under section 11 as in force immediately before the commencement of the amendments made to that section by the amending Act is taken to be the register kept under section 11 as so amended. 20

7 Existing managers of mines

A person who held the position of manager of a mine in accordance with section 5 immediately before its substitution by the amending Act is taken to be the general manager of the mine. 25

8 Existing exemption for certain opal mines

The exemption under section 1 (2) (relating to an opal mine in which no persons are employed other than the owners of the mine) that was proclaimed in Gazette No 81 of 16 May 1986 at page 2127 continues to have effect despite the substitution of section 5 by the amending Act. However, a reference in the proclamation to section 5 (3)–(5A) is to be read as a reference to sections 5A, 5B and 5C. 30
35

**Schedule 2 Amendment of Mines Inspection
General Rule 1994**

(Section 4)

[1] Clause 7 Safe working—health and safety

Insert after clause 7 (3):

5

(4) The general manager of a mine must ensure that an effective communication system is installed and maintained at the mine (including an above ground mine) so that communication is available with the persons who are employed at the mine.

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(5) The general manager of a mine must ensure that, where practicable, two exits are provided from each underground working place at the mine. Each exit must have a means of egress to the surface of the mine that is separate from the other exit.

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(6) The general manager of a mine must ensure that a system is in place at the mine that enables the general manager and the production manager to be aware of the name of any person for the time being employed in an underground working place at the mine and, as far as is reasonably possible, the person's likely location in that place.

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[2] Part 7A

Insert after clause 39:

Part 7A Waste materials

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39A Waste materials—health and safety

(1) A person who uses, handles, stores, transports or disposes of waste materials produced at a mine must do so in a manner that does not tend to injure, or threaten the health or safety of, any person.

30

Mines Inspection Amendment Bill 1998

Schedule 2 Amendment of Mines Inspection General Rule 1994

- (2) The general manager of a mine must ensure that the mine personnel have adequate information, training and conveniently stored equipment to respond to a spillage or other emergency involving waste materials.
- (3) In this clause, *waste materials* means waste rock, overburden, spoil or waste substances produced from the processing of ore or tailings. 5

[3] Clause 55 Definition

Insert "means any foreseeable industrial or natural disaster and" before "includes" in the definition of *emergency*. 10

[4] Clause 55, definition of "emergency"

Omit "an unforeseen,". Insert instead "a".

[5] Clause 56 Planning for emergencies

Omit "manager" wherever occurring.
Insert instead "general manager". 15

[6] Clause 56 (3)

- Insert after clause 56 (2):

- (3) The general manager must ensure that any strategy or procedure referred to in subclause (1) integrates with any emergency response plans prepared by emergency services organisations for the area in which the mine is located. 20

Schedule 3 Amendment of Defamation Act 1974

(Section 5)

Section 17U

Insert after section 17T:

17U Reports under the Mines Inspection Act 1901

5

There is a defence of absolute privilege for the publication of a report referred to in section 48 of the *Mines Inspection Act 1901* of an inspector appointed under that Act to or by the Minister administering that Act.

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