



New South Wales

Coal Mine Health and Safety Amendment (Validation) Bill 2013

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to validate previous appointments of the Chief Inspector, inspectors, mine safety officers and investigators under the *Coal Mine Health and Safety Act 2002* and to save appointments of officers under that Act that were inadvertently revoked,
- (b) to validate things done or omitted by those officers and things done in reliance on or as a consequence of such things.

Outline of provisions

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

Clause 2 provides for the proposed Act to commence on the date of assent to the proposed Act.

Schedule 1 Amendment of Acts

Schedule 1.1 amends the *Coal Mine Health and Safety Act 2002* to validate the appointment under section 145 of that Act of the Chief Inspector, inspectors, mine safety officers and investigators who were purported to be appointed under that Act by an instrument dated 22 December 2006.

The amendment also saves the appointments of certain officers by reversing the inadvertent revocation of their appointments by an instrument of appointment published in the Government Gazette on 5 October 2012, and provides that the revocation is taken never to have had effect.

Subsequently, the appointments of those officers were revoked, and they were further reappointed, by an instrument dated 6 August 2013.

The amendment validates things that would have been valid if the amendment validating and saving the appointments had been in force when the things were done or omitted. Things done or omitted by officers whose appointments are validated or saved are validated, as are things done or omitted to be done in reliance on, or as a consequence of, those things. This includes the commencement or institution of criminal proceedings.

The amendment will not affect decisions in court proceedings made before the amendment commences unless they would be valid if the validation had been in force.

Schedule 1.2 makes it clear that the operation of the amendment made by Schedule 1.1 is not affected by its repeal by the *Work Health and Safety (Mines) Act 2013*.



New South Wales

Coal Mine Health and Safety Amendment (Validation) Bill 2013

Contents

| | Page |
|------------------------------|------|
| 1 Name of Act | 2 |
| 2 Commencement | 2 |
| Schedule 1 Amendment of Acts | 3 |



New South Wales

Coal Mine Health and Safety Amendment (Validation) Bill 2013

No. , 2013

A Bill for

An Act to amend the *Coal Mine Health and Safety Act 2002* and the *Work Health and Safety (Mines) Act 2013* to validate certain matters relating to the appointment of officers.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Coal Mine Health and Safety Amendment (Validation) Act 2013*.

3

2 Commencement

4

This Act commences on the date of assent to this Act.

5

| | | |
|-------------------|--|----------------------|
| Schedule 1 | Amendment of Acts | 1 |
| 1.1 | Coal Mine Health and Safety Act 2002 No 129 | 2 |
| | Schedule 3 Savings, transitional and other provisions | 3 |
| | Insert after clause 24: | 4 |
| 24A | Validation | 5 |
| (1) | The appointment of a person as the Chief Inspector, an inspector, a mine safety officer or an investigator by the 2006 instrument is taken to be valid (and to have always been valid). | 6 7 8 |
| (2) | The appointment is taken to have had effect on and from the commencement of section 145. | 9 10 |
| (3) | The revocation of appointments of officers (other than officers appointed under the 2006 instrument) by the 2012 instrument has no effect and is taken never to have had effect. | 11 12 13 |
| (4) | The following things are taken to be valid (and to have always been valid) if they would have been valid had this clause been in force when they were done or omitted: | 14 15 16 |
| (a) | anything purported to have been done or omitted to have been done by a validated officer in the capacity of an officer, | 17 18 |
| (b) | anything done or omitted to be done by any other person or a court or other body in reliance on, or as a consequence of, any such act or omission by a validated officer. | 19 20 21 |
| (5) | To remove doubt, this clause extends to the commencement or institution of criminal proceedings (including the purported commencement or institution of criminal proceedings) and any act or omission in connection with criminal proceedings. | 22 23 24 25 |
| (6) | This clause does not affect any decision made by a court before the commencement of this clause, except as provided by subclause (7). | 26 27 |
| (7) | A decision of a court made before the commencement of this clause that would have been validly made had this clause been in force when the decision was made (and that would otherwise not have been valid) is validated. | 28 29 30 |
| (8) | Nothing in this clause operates to continue or otherwise restore the appointment of a person who ceased to be an officer other than in connection with the 2006 instrument or the 2012 instrument. | 31 32 33 |
| (9) | In this clause: | 34 |
| | 2006 instrument means the instrument of appointment under the <i>Coal Mine Health and Safety Act 2002</i> , dated 22 December 2006, published in Gazette No 5 of 12 January 2007 at page 102. | 35 36 37 |
| | 2012 instrument means the instrument of appointment under the <i>Coal Mine Health and Safety Act 2002</i> , dated 18 September 2012, published in Gazette No 105 of 5 October 2012 at page 4295. | 38 39 40 |
| | officer means the Chief Inspector, an inspector, a mine safety officer or an investigator. | 41 42 |

| | |
|---|---------------|
| <i>validated officer</i> means: | 1 |
| (a) a person whose appointment as an officer is validated under subclause (1), or | 2 3 |
| (b) a person whose appointment as an officer is saved under subclause (3). | 4 |
| 1.2 Work Health and Safety (Mines) Act 2013 No 54 | 5 |
| Schedule 1 Savings, transitional and other provisions | 6 |
| Insert after clause 14: | 7 |
| 15 Validation not affected by repeal | 8 |
| To avoid doubt, the repeal of the CMHS Act does not affect the operation of any validation, saving or other thing done by clause 24A of Schedule 3 to that Act. | 9 10 11 |