



Mining Legislation Amendment (Health And Safety) Bill

Second Reading

**Corrected
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MINING LEGISLATION AMENDMENT (HEALTH AND SAFETY) BILL

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Bill introduced and read a first time.

Declaration of urgency agreed to.

Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.49 p.m.]: I move:

That this bill be now read a second time.

The Carr Labor Government remains strongly committed to protecting the health and safety of this State's mineworkers. To do this the Government will maintain an up-to-date, effective and responsible regulatory framework. This includes correcting any inadequacies in existing legislation, as they become apparent, to improve health and safety outcomes across all sectors of the mining industry. The Mining Legislation Amendment (Health and Safety) Bill is a responsible approach by this Government to ensure that health and safety legislation associated with mining in New South Wales offers the best possible protection for the State's 15,000 mineworkers. The bill will amend a number of Acts to achieve three important objectives.

First, it will give the State's peak mining industry safety advisory body, the Mine Safety Advisory Council, a basis in legislation with increased status, and permanence arising from that. Second, it will allow the consistent administration of the Occupational Health and Safety Act 2000 across the entire mining industry, and give Department of Mineral Resources officers additional authority and powers under the Occupational Health and Safety Act. Finally, and very importantly, it will move New South Wales toward a position where it will fully comply with International Labour Organisation Convention 176, which enshrines important safeguards for mineworkers. In 1997, against a backdrop of tragic deaths and near misses, this Government commissioned a wide-ranging review of mine safety in New South Wales, and implemented a number of key reforms.

The mine safety review made it very clear that effective processes of consultation and communication are fundamental to a safe industry in which the risks are managed, and mineworkers are protected from harm. In recognition of this and to provide a focus for the implementation of the recommendations of the review, the Mine Safety Council was formed as a tripartite council with representation from industry, employee representatives, and government. The primary role of the council was to provide advice to the Minister. Since that time significant progress has been made with reforms to create a safer and healthier workplace for New South Wales miners. Under the chairmanship of Professor Dennis Else, a world-renowned expert in occupational health and safety, the Mine Safety Council has been a major contributor to the reform process in providing strategic advice on ways to improve health and safety in the mining industry.

As the peak advisory body covering the entire mining industry, the Mine Safety Council is critical in co-ordinating a truly industry-wide approach to health and safety. The Government believes that giving the council a basis in legislation will reinforce its importance to the mining industry, and enhance its status and permanence. This is also consistent with International Labour Organisation Convention 176, which requires that members have a peak consultative arrangement

that includes representative organisations of employers and employees. The council's three industry sector advisory committees—the coal, metalliferous and extractive industry advisory committees—will continue to support the important work of the council. As the council will cover the whole of the mining industry, it is appropriate that its legislative basis will be in the Mining Act rather than in the individual mining health and safety Acts that cover specific parts of the industry.

The bill will provide the Mining Safety Advisory Council with the necessary function of providing advice on policy matters relating to occupational health and safety in mines with other advisory functions to be prescribed in regulations. The Occupational Health and Safety Act already applies to all workplaces, including mines. This reflects the longstanding arrangement in New South Wales of having the Occupational Health and Safety Act as the centrepiece or umbrella legislation for all industry. Although the Occupational Health and Safety Act applies to all industries, responsibility for its administration is shared. Under current arrangements the Minister for Industrial Relations administers the Occupational Health and Safety Act for industry generally. I, as the Minister for Mineral Resources, with the support of the Department of Mineral Resources, administer the Occupational Health and Safety Act in mines.

The bill will ensure that powers and functions are available to front-line Department of Mineral Resources officers to appropriately administer and, where necessary, enforce the Occupational Health and Safety Act with respect to mines. For example, it will ensure that occupational health and safety committees at mines can call upon the assistance of government inspectors where necessary. Presently, the committee cannot call on WorkCover inspectors because they have no jurisdiction in mines. A mining inspector is not an inspector recognised by the Occupational Health and Safety Act, and may not enter a mine for this purpose. Under current arrangements, officers from the Department of Mineral Resources who are responsible for ensuring compliance and enforcement of the State's mining legislation and regulations operate without the full powers available under the Occupational Health and Safety Act.

This situation is no longer tenable while provisions to improve health and safety in mines are present in the Occupational Health and Safety Act. The bill provides for the Minister for Mineral Resources, or a delegate, to appoint our existing mining inspectors, mine safety officers and investigators to exercise the appropriate powers under the Occupational Health and Safety Act. The bill corrects an existing inadequacy, and allows the Minister for Mineral Resources to ensure that front-line Department of Mineral Resources officers have the capacity to exercise important powers and functions under the Occupational Health and Safety Act. The bill limits the exercise of these functions under the Occupational Health and Safety Act to a mine or other premises to investigate matters in relation to a mine.

The additional powers to be provided to Department of Mineral Resources officers will not only complement existing arrangements but ensure that those currently enforcing mine safety have the necessary authority under the State's principal safety legislation, the Occupational Health and Safety Act. The bill will also ensure that the new provisions in the Occupational Health and Safety Act 2000 concerning workplace consultation can be administered effectively and, where necessary, enforced. Currently, under the Occupational Health and Safety Act workers in all industries are covered by a general duty for employers to undertake consultation with employees on matters affecting their health, safety and welfare at work. This requirement is framed to explicitly enable employees to contribute to the making of decisions that will affect them. The importance of effective communication and consultation in the workplace cannot be overemphasised.

This is especially the case in an area like health and safety, where people's lives may directly depend upon an understanding of safe and healthy ways of working. In an industry like mining, where the dangers may be considerable and their discovery and control may depend on the vigilance of those at the coalface, effective communication and consultation are paramount. Along with the other general duty of care, the bill will ensure that the consultation duties are applied equally to mines as they are to other industries. I turn now to the amendments to the associated mining legislation that are set out in schedules 1 and 2 to the bill. Under the associated mining legislation, a person who is required to answer questions by an inspector, mine safety officer, or investigator has a right to have another person present while that questioning takes place. This is a

longstanding feature of the mining legislation, and is recognised as an important factor in fostering co-operation in investigations.

The amendments to the associated mining legislation will protect that right if a person is required to answer questions under a power from the Occupational Health and Safety Act. As I said at the outset, one objective of the Government is to bring New South Wales law and practice into line with International Labour Organisation Convention 176. To achieve this it is necessary to amend the definition of "owner" in the Coal Mines Regulation Act to make it clear that provisions applying to contractors extend to subcontractors. A similar amendment for the same purpose was made in 1998 to the definition of "owner" in the Mines Inspection Act. The Mining Legislation Amendment (Health and Safety) Bill is a demonstration of the Government's ongoing commitment to do all it can to protect the lives of those who work in our mines and whose labour ultimately provides considerable benefits to the State. I expect that anyone with a similar shared commitment will support the bill. I commend the bill to the House.

Debate adjourned on motion by the Hon. John Ryan.

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