

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

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

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#### Outline of provisions

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

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

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

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

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

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

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

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

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

Schedule 1 [7] updates the definition of Department.

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

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

of material from land for the purpose of recovering coal is carried out (if that place is at or near the place from which the material or coal was extracted),  
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(d) any place where the treatment of the coal or the material extracted for the purpose of recovering or improving coal is carried out (if that place is at or near the place from which the material or coal was extracted),

(e) any place where coal exploration is carried out,

(f) any place where offshore mining activities (within the meaning of the Offshore Minerals Act 1999) for coal are carried out,

(g) any place where operations associated with the care, security or maintenance of such a place are carried out during any time when activities or operations at that place are suspended,

(h) any place where operations associated with the decommissioning or abandonment of such a place are carried out,

(i) any place where such an activity or operation is or has been carried out and that is being rehabilitated.

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

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

(a) proposed section 8 provides that the CMH&S Act applies to all places of work that are mines and to certain other specified places. (At present, that Act applies to all places of work that are within a colliery holding, that are coal exploration sites or that are the subject of a licence to mine coal under the Offshore Minerals Act 1999),

(b) proposed section 8A provides for the regulations to exclude a mine or place of a certain class from the operation of the CMH&S Act and for the Minister for Mineral and Forest Resources to specify (by notice published in the Gazette) mines or places to which that Act does not apply,

(c) proposed section 8B provides for the Minister to determine certain jurisdictional questions,

(d) proposed section 8C provides that the CMH&S Act does not apply to railway operations or public roads,

(e) proposed section 8D provides that the CMH&S Act does not apply to civil engineering works,

(f) proposed section 8E provides that the CMH&S Act does not apply to powerlines,

(g) proposed section 9 provides that the CMH&S Act binds the Crown.

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

Schedule 1 [16] updates a definition of mine.

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

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

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

Schedule 1 [20] and [21] provide for the consideration and investigation of

complaints concerning mines rather than just coal operations.

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

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

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

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

Schedule 2 Amendment of Mining Act 1992 No 29

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

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

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

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

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

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

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

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

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Schedule 3 Amendment of other Acts and instruments

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

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

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

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

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

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

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

Schedule 3.8 omits uncommenced amendments to provisions of the Mining Act 1992 from the Mining Amendment Act 2008. Those amendments relate to the registration

of colliery holdings and are redundant as a result of the amendments made by Schedule 2. The Subschedule also makes an amendment that is consequential on the amendment made by Schedule 2 [4].

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

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

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