

WORK HEALTH AND SAFETY (MINES) BILL 2013

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Bill introduced on motion by Mr Chris Hartcher, read a first time and printed.**Second Reading**

Mr CHRIS HARTCHER (Terrigal—Minister for Resources and Energy, Special Minister of State, and Minister for the Central Coast) [3.23 p.m.]: I move:

That this bill be now read a second time.

The Work Health and Safety (Mines) Bill 2013 will continue to ensure the ongoing regulation of health and safety in the New South Wales mining industry. This bill finalises implementation of the national harmonisation of work health and safety laws in New South Wales. This bill allows New South Wales to adopt the provisions of the national model Work Health and Safety (Mines) Regulation and additional provisions developed cooperatively by the New South Wales, Queensland and Western Australia regulators, unions and employer groups. In 2008 the Council of Australian Governments agreed to implement a coordinated national approach to uniform work health and safety laws and consistent mine safety regulation.

In recognition of the significant risks involved with mining undertaken in the three major mining States, particularly in relation to coalmining, it was also agreed that a tri-state process involving New South Wales, Queensland and Western Australia would develop additional mining-specific provisions. The passing of the proposed legislation by 1 July 2013 will help ensure that New South Wales secures reward funding of \$79 million under the Council of Australian Governments National Partnership Agreement to deliver a seamless national economy. The bill establishes the mechanism for the inclusion of additional and appropriate mining-specific regulatory provisions for mining workplaces within the Work Health and Safety Act framework. The bill will replace the Coal Mine Health and Safety Act and the Mine Health Safety Act with one mine-specific legislative scheme.

The objects of the bill include protecting the health and safety of people at mines, effective provisions for emergencies, ensuring competency standards for people performing certain functions at mines, coal-specific worker representatives and additional enforcement powers. The bill enables the establishment of the Mine Safety Advisory Council, boards of inquiry and interstate regulatory cooperation. The bill applies to all workplaces that are mines. It adopts the model mines regulation provisions that define a mine as a place where mining operations are carried out. The bill maintains a consistent approach to the current jurisdiction and current application of the existing mine safety regulatory scheme in New South Wales.

I will now go through the detailed provisions in the bill. The notification of serious workplace incidents are a key element of the work health and safety framework. Under the bill, the appointed mine operator has overall responsibility for work health and safety at a mining workplace. The bill requires a mine operator to ensure the notification to the regulator of notifiable incidents, that is, the death of a person, serious injury or illness, or a dangerous

incident. The bill also requires a mine operator to notify other high potential incidents, which will be specified in the regulation. The bill ensures there is appropriate regulatory oversight of mining operations. The regulator will be the Director General of the Department of Trade and Investment, Regional Infrastructure and Services.

The bill provides for the powers and functions of the regulator that are consistent with the Work Health and Safety Act. These regulator functions include monitoring and enforcing compliance, and providing advice and information on work health and safety to the Minister, duty holders and the community. In the bill government officials include inspectors, mine safety officers and investigators who will require specific skills, knowledge, experience and qualifications related to mining operations. The bill provides for circumstances additional to those in the Work Health and Safety Act where an improvement notice or prohibition notice may be in respect of a mining workplace.

These provisions maintain the effect of existing enforcement measures under the existing Coal Mine Health and Safety Act and the Mine Health and Safety Act. There is no reduction in enforcement powers for mines inspectors and investigators. These powers reflect the need for early intervention to prevent the effects of catastrophic risk associated with mining. The bill streamlines an inspector's enforcement powers to enable proactive intervention to address mining risks. The bill also provides for the regulator to make a stop work order if it is necessary to prevent a serious risk to the health or safety of any person at a mine.

Mining incidents have the potential to seriously injure or kill large numbers of mineworkers. An underground coalmine explosion at New Zealand's Pike River coalmine in 2010 killed 29 mine workers. The Pike River royal commission made a number of recommendations about how to prevent mine tragedies after considering the fatal explosion at Pike River. The royal commission's final report was reviewed by the Mine Safety Advisory Council and the tri-state legislation working group. The review of the Pike River report confirmed that the proposed New South Wales legislative scheme applying to coalmines met the appropriate standards. The Mine Safety Advisory Council is a body established under the Mining Act 1992. The bill provides for the continuation of the council with the provisions being transferred from the Mining Act 1992 into the bill. The council is a tripartite group comprising representatives from the regulator, employers and employees, as well as independent health and safety experts.

I now turn my attention to the competence of people with safety-critical roles in mining. Many inquiries and commissions into major mining hazards have identified the need for people with specific skills and expertise to manage mining operations. The Mining Competence Board will determine competence standards for safety-critical roles and undertake the assessment of people to perform those roles, which will be identified in the regulation. The bill also provides for the Minister to have the power to establish boards of inquiry. A board of inquiry may be set up to inquire into an event or dangerous occurrence that has caused death or serious injury at a mine, and into its causes and circumstances.

The high-risk nature of coalmining has warranted special attention by governments and mining operators. Underground coalmines are inherently hazardous workplaces because of the potential explosive atmospheres associated with methane. The bill ensures that the existing coalmine-specific worker representative arrangements are maintained. These arrangements are consistent with Queensland—the other key coal jurisdiction—and the recommendations from the Pike River royal commission report. Industry safety and health representatives and site-specific safety and health representatives will supplement existing work health and safety worker representatives. The key coal mining stakeholders, the NSW Minerals Council and the Construction, Forestry, Mining and Energy Union [CFMEU], Mining and Energy Division, are in agreement on the coal-specific worker representatives.

This scheme is a re-alignment of the "check inspector" scheme under the Coal Mine Health and Safety Act. It enables a practical framework for the concurrent operation of worker representation, consultation and participation schemes under both the bill and the Work Health and Safety Act. The coalmine specific safety and health representatives have all the powers and functions of health and safety representatives under the Work Health and Safety Act. The bill provides for the Minister to appoint industry safety and health representatives. The industry safety and health representatives will be able to enter and inspect a workplace at a coalmine. Additionally, they will be able to review the content and implementation of a coalmine safety management system, participate in an investigation of an event, occurrence or notifiable incident, and assist in the training of other representatives.

The bill will require industry safety and health representatives to take reasonable steps to notify a government official of their intent to issue a notice to suspend operations prior to issuing the notice. The bill sets out provisions for the election, disqualification and rights of site-specific safety and health representatives, including electrical representatives. They may only exercise powers or perform functions in respect of the coalmine for which they are elected. The issuing of provisional improvement notices at a coalmine will be limited to site-specific safety and health representatives only. However, before a site safety and health representative exercises this power the representative must consult with any relevant health and safety representative under the Work Health and Safety Act for a work group that comprises workers at the mine who will be affected by the provisional improvement notice [PIN].

Electrical safety and health representatives' powers and functions will apply to the whole of the coalmine, but only with respect to electrical equipment and installations, and issues and risks arising from their use. Under the bill the Mine Safety Advisory Council and the Mining Competence Board will continue and the Minister will be able to constitute a board of inquiry. To enable effective regulation of a nationally harmonised model, the bill makes provision for the sharing of information with regulators of corresponding mining-specific work health and safety laws. These regulators may retain separate, stand-alone mine safety legislation from the corresponding Work Health and Safety Act in their jurisdiction.

The Work Health and Safety Act recognises the important role of codes of practice. The bill

ensures that the agreed mining codes of practice can be approved by the Minister. Codes of practice have evidentiary status and are an agreed way that a duty holder can reasonably and practicably comply with their legislative obligations. The bill makes it clear that the process for developing mining codes of practice requires consultation only with stakeholders in the relevant jurisdictions—that is, those jurisdictions that intend to adopt the codes. The Government has consulted with the major mining stakeholder groups on the bill. The stakeholder groups, the NSW Minerals Council, Cement Concrete and Aggregates Australia, Construction, Forestry, Mining and Energy Union and Australian Workers Union, represent the bulk of mine operators and mine workers. These stakeholders have been involved all the way through the process of developing the model Work Health and Safety Mines Regulation. Importantly, the bill does not reduce the legislated safety standards for mine workers. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.