

## COAL MINES REGULATION (AMENDMENT) BILL, 1985

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### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Coal Mines Regulation Act, 1982 ("the Act"), so as—

- (a) to provide for qualifications of inspectors to be prescribed by regulation rather than by the Act (Schedule 1 (1));
- (b) to require the manager of a mine to ensure that officials appointed by the manager are trained to exercise their functions under the Act (Schedule 1 (2));
- (c) to enable the owner of an open cut mine to carry out work at the mine on a day when no mining is taking place if a competent person is in charge (at present the person in charge must hold certain certificates of competency) (Schedule 1 (3));
- (d) to limit the delegation of a mine manager's functions by instrument to officials at the mine (Schedule 1 (4));
- (e) to provide for the delegation of a mine manager's functions under any rule or scheme to persons other than officials to be effected by the rule or scheme (Schedule 1 (5));
- (f) to enable appeals to be made in relation to delegations referred to in paragraph (e) (Schedule 1 (5));
- (g) to provide for proceedings for offences in relation to the Act and instruments made in pursuance of the Act to be heard, except in certain cases, by an industrial magistrate rather than a Magistrate of a Local Court (Schedule 1 (8));
- (h) to make it clear that it is an offence for a person to breach a condition to which an exemption from a provision of the regulations, the rules or a scheme is subject (Schedule 1 (9));
- (i) to enable regulations to be made to regulate washeries which service coal mines (Schedule 1 (10) (b)); and
- (j) to allow the Chief Inspector to serve an order for an exemption from a provision of the regulations, the rules or a scheme in relation to a mine on the manager of the mine as well as the owner of the mine (Schedule 1 (10) (c)).

The Bill also contains transitional, savings and other provisions of a minor, consequential or ancillary nature.

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# COAL MINES REGULATION (AMENDMENT) BILL, 1985

No.      , 1985.

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## A BILL FOR

An Act to amend the Coal Mines Regulation Act, 1982, in respect of the functions of managers of mines, proceedings for offences, the regulation of washeries, and in other respects.

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*Coal Mines Regulation (Amendment) 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

1. This Act may be cited as the "Coal Mines Regulation (Amendment) Act, 1985".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Principal Act.**

15 3. The Coal Mines Regulation Act, 1982, is referred to in this Act as the Principal Act.

**Amendment of Act No. 67, 1982.**

4. The Principal Act is amended in the manner set forth in Schedule 1.

**Saving and transitional provision.**

20 5. (1) A delegation made to a person (other than an official within the meaning of the Principal Act) under section 56 (1) of that Act shall cease to be in force on the day appointed and notified under section 2 (2).

25 (2) Proceedings for an offence referred to in section 156 (1) of the Principal Act commenced before the day appointed and notified under section 2 (2) and not finally heard and determined before that day shall be heard and determined as if the Principal Act had not been amended by this Act.

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*Coal Mines Regulation (Amendment) 1985*

## SCHEDULE 1.

(Sec. 4.)

## AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 8—

5 Omit the section, insert instead:—

**Qualifications of inspectors.**

8. A person shall not be appointed to a position under section 7 unless the person holds such qualifications and has had such experience as may be prescribed in relation to that position.

## 10 (2) (a) Section 37 (2) (a)—

Omit the paragraph, insert instead:—

15 (a) appoint the requisite number of officials of the mine required by this Act or the regulations (other than officials who are senior to the manager) to exercise the functions conferred or imposed on those officials by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder;

## (b) Section 37 (2) (e)—

20 Omit “subject to subsection (3) (a), ensure that the persons appointed or employed as required under paragraph (a) understand the nature and scope of ”, insert instead “ensure that the officials appointed by the manager are trained in the exercise of ”.

## 25 (c) Section 37 (3) (a)—

Omit the paragraph.

## (3) Section 49 (3)—

30 Omit “person, being a person who holds a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine,”, insert instead “competent person”.

## (4) (a) Section 56 (1)—

Omit “or other person employed”.

*Coal Mines Regulation (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 56 (5) (a)—

Omit the paragraph, insert instead:—

5 (a) the official or class of official; or

(c) Section 56 (5) (b)—

Omit “or a person”.

(d) Section 56 (6)—

Omit “or a person” wherever occurring.

10 (e) Section 56 (6) (b)—

Omit “or person”.

(f) Section 56 (11)—

After section 56 (10), insert:—

15 (11) Nothing in this section affects the power of a manager of a mine to delegate a function to a person holding a position at the mine (other than the position of an official) under section 108A.

(5) Section 108A—

After section 108, insert:—

20 **Delegations by rules or a scheme.**

25 108A. (1) Rules or schemes made or prepared under this Division for a mine may make provision for or with respect to the delegation of the exercise of any function of the manager of the mine that relates to the subject-matter of those rules or schemes to a person holding a specified position at the mine (other than the position of an official).

(2) A delegate under a delegation referred to in subsection (1) may appeal to the district inspector against so much of the rules or a scheme that relates to the delegation.

30 (3) A district inspector who receives an appeal in relation to rules or a scheme under subsection (2) shall, within 21 days of the receipt of the appeal—

*Coal Mines Regulation (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (a) serve on the appellant a notice disallowing the appeal; or
- 5 (b) take action under section 106 in respect of the rules or scheme.
- (4) A delegate may, within 14 days of the service on the delegate of a notice under subsection (3) (a), appeal to the Chief Inspector against the notice.
- 10 (5) The Chief Inspector shall, within 21 days of the receipt of an appeal under subsection (4)—
- (a) confirm the notice appealed against; or
- (b) revoke that notice and serve on the manager of the mine a notice requiring the manager, before the expiration of such period as is specified in the notice, to take such action to change the rules or scheme to which the appeal relates as is specified in the notice.
- 15 (6) The manager of a mine shall not delegate under this section the exercise of—
- (a) the manager's power of delegation; or
- 20 (b) such of the manager's functions as are prescribed for the purposes of this subsection.
- (7) Regulations may be made, not inconsistent with this Act, for or with respect to delegations referred to in subsection (1) and appeals against any such delegation.

*Coal Mines Regulation (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) Section 109 (2)—

At the end of section 109, insert:—

- 5           (2) The manager of a mine served with a notice under section 108A (5) (b) shall, unless the manager appeals under section 108 against the notice and the notice is revoked by a court, comply with the notice or the notice as varied by a court, as the case may be.

(7) Section 110 (b) (i)—

- 10           After “106”, insert “(not being a notice served as a consequence of an appeal under section 108A)”.

(8) Section 156—

Omit the section, insert instead:—

**Where proceedings taken.**

- 15           156. (1) Proceedings for an offence against this Act, Division 2 of Part IV excepted, the regulations, the rules or a scheme shall be disposed of summarily before an industrial magistrate.

(2) Proceedings for an offence against Division 2 of Part IV shall be disposed of summarily before a Court of Coal Mines Regulation.

- 20           (3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an



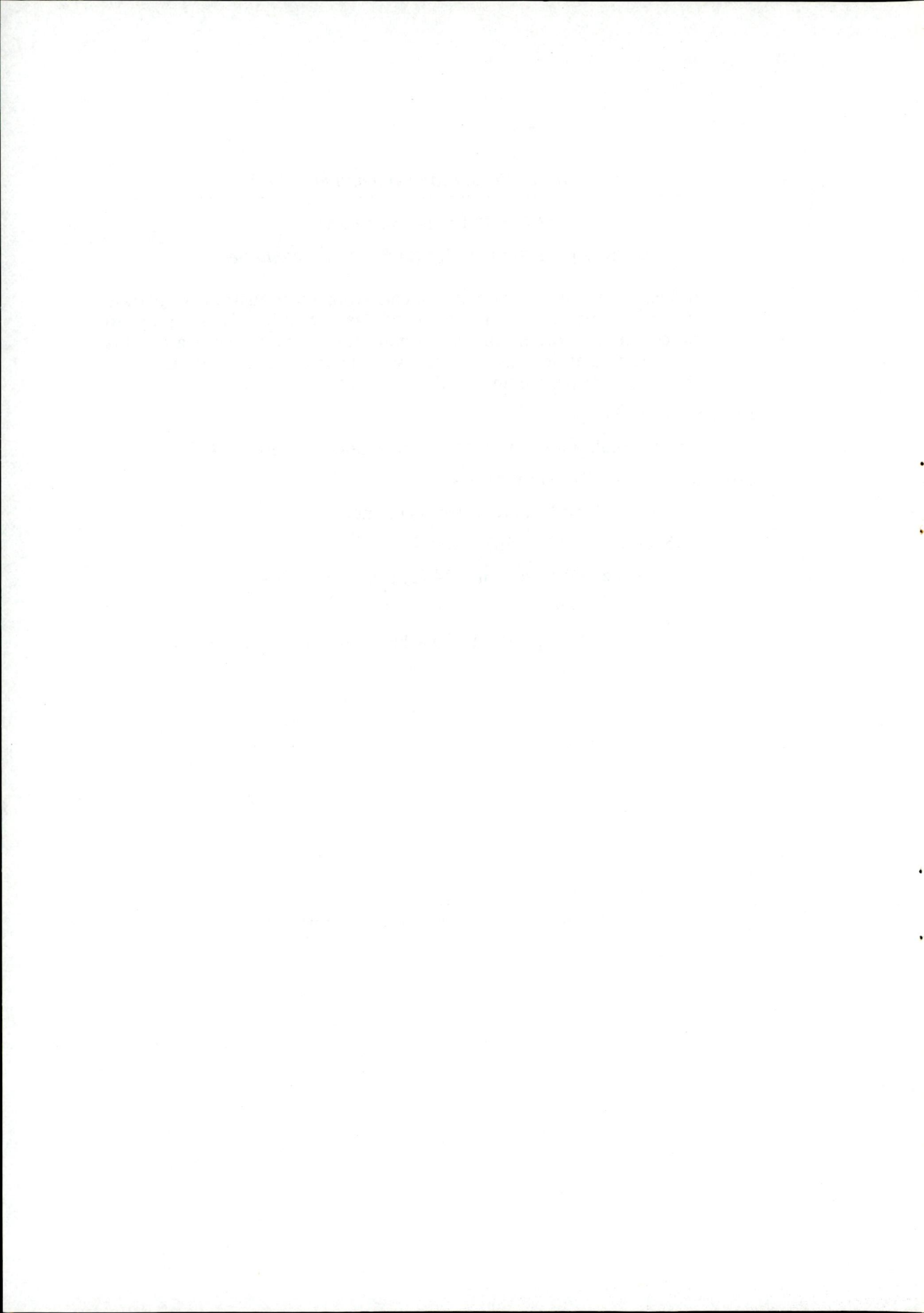
*Coal Mines Regulation (Amendment) 1985*

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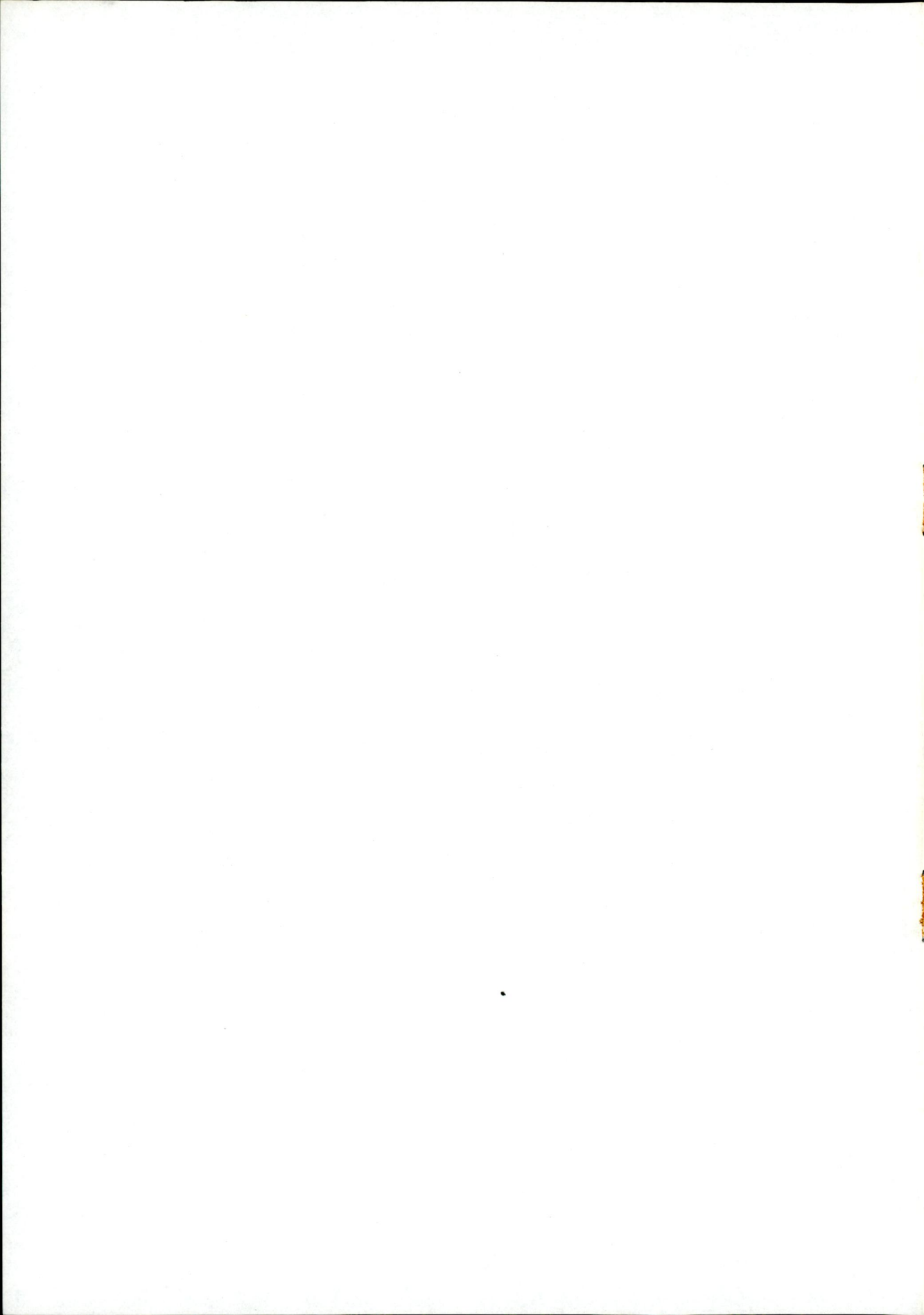
SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales apply to proceedings before an industrial magistrate for offences against this Act, the regulations, the rules or a scheme as if the proceedings under this Act were proceedings under that Act.
- (9) Section 160 (o)—  
 After “regulations,” insert “an order under section 174 (5),”.
- 10 (10) (a) Section 174 (2) (mmm)—  
 Omit “and” where lastly occurring.
- (b) Section 174 (2) (nnn), (ooo)—  
 At the end of section 174 (2) (nnn), insert:—  
                   ; and
- 15 (ooo) the regulation of washeries which service mines.
- (c) Section 174 (5)—  
 After “owner”, insert “or manager”.







**COAL MINES REGULATION (AMENDMENT) ACT, 1985,  
No. 57**

*New South Wales*



ANNO TRICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 57, 1985.**

An Act to amend the Coal Mines Regulation Act, 1982, in respect of the functions of managers of mines, proceedings for offences, the regulation of washeries, and in other respects. [Assented to, 15th May, 1985.]

*Coal Mines Regulation (Amendment) 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Coal Mines Regulation (Amendment) Act, 1985".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Principal Act.**

3. The Coal Mines Regulation Act, 1982, is referred to in this Act as the Principal Act.

**Amendment of Act No. 67, 1982.**

4. The Principal Act is amended in the manner set forth in Schedule 1.

**Saving and transitional provision.**

5. (1) A delegation made to a person (other than an official within the meaning of the Principal Act) under section 56 (1) of that Act shall cease to be in force on the day appointed and notified under section 2 (2).

(2) Proceedings for an offence referred to in section 156 (1) of the Principal Act commenced before the day appointed and notified under section 2 (2) and not finally heard and determined before that day shall be heard and determined as if the Principal Act had not been amended by this Act.

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## SCHEDULE 1.

(Sec. 4.)

## AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 8—

Omit the section, insert instead:—

**Qualifications of inspectors.**

8. A person shall not be appointed to a position under section 7 unless the person holds such qualifications and has had such experience as may be prescribed in relation to that position.

## (2) (a) Section 37 (2) (a)—

Omit the paragraph, insert instead:—

- (a) appoint the requisite number of officials of the mine required by this Act or the regulations (other than officials who are senior to the manager) to exercise the functions conferred or imposed on those officials by this Act, the regulations, the rules and any schemes and any directions, or conditions of exemptions or approvals, given thereunder;

## (b) Section 37 (2) (e)—

Omit “subject to subsection (3) (a), ensure that the persons appointed or employed as required under paragraph (a) understand the nature and scope of ”, insert instead “ensure that the officials appointed by the manager are trained in the exercise of ”.

## (c) Section 37 (3) (a)—

Omit the paragraph.

## (3) Section 49 (3)—

Omit “person, being a person who holds a certificate of competency to be a manager of an open cut mine or a certificate of competency to be an examiner of an open cut mine,”, insert instead “competent person”.

## (4) (a) Section 56 (1)—

Omit “or other person employed”.

*Coal Mines Regulation (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 56 (5) (a)—

Omit the paragraph, insert instead:—

(a) the official or class of official; or

(c) Section 56 (5) (b)—

Omit “or a person”.

(d) Section 56 (6)—

Omit “or a person” wherever occurring.

(e) Section 56 (6) (b)—

Omit “or person”.

(f) Section 56 (11)—

After section 56 (10), insert:—

(11) Nothing in this section affects the power of a manager of a mine to delegate a function to a person holding a position at the mine (other than the position of an official) under section 108A.

(5) Section 108A—

After section 108, insert:—

**Delegations by rules or a scheme.**

108A. (1) Rules or schemes made or prepared under this Division for a mine may make provision for or with respect to the delegation of the exercise of any function of the manager of the mine that relates to the subject-matter of those rules or schemes to a person holding a specified position at the mine (other than the position of an official).

(2) A delegate under a delegation referred to in subsection (1) may appeal to the district inspector against so much of the rules or a scheme that relates to the delegation.

(3) A district inspector who receives an appeal in relation to rules or a scheme under subsection (2) shall, within 21 days of the receipt of the appeal—



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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (a) serve on the appellant a notice disallowing the appeal; or
  - (b) take action under section 106 in respect of the rules or scheme.
- (4) A delegate may, within 14 days of the service on the delegate of a notice under subsection (3) (a), appeal to the Chief Inspector against the notice.
- (5) The Chief Inspector shall, within 21 days of the receipt of an appeal under subsection (4)—
- (a) confirm the notice appealed against; or
  - (b) revoke that notice and serve on the manager of the mine a notice requiring the manager, before the expiration of such period as is specified in the notice, to take such action to change the rules or scheme to which the appeal relates as is specified in the notice.
- (6) The manager of a mine shall not delegate under this section the exercise of—
- (a) the manager's power of delegation; or
  - (b) such of the manager's functions as are prescribed for the purposes of this subsection.
- (7) Regulations may be made, not inconsistent with this Act, for or with respect to delegations referred to in subsection (1) and appeals against any such delegation.

*Coal Mines Regulation (Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) Section 109 (2)—

At the end of section 109, insert:—

(2) The manager of a mine served with a notice under section 108A (5) (b) shall, unless the manager appeals under section 108 against the notice and the notice is revoked by a court, comply with the notice or the notice as varied by a court, as the case may be.

(7) Section 110 (b) (i)—

After “106”, insert “(not being a notice served as a consequence of an appeal under section 108A)”.

(8) Section 156—

Omit the section, insert instead:—

**Where proceedings taken.**

156. (1) Proceedings for an offence against this Act, Division 2 of Part IV excepted, the regulations, the rules or a scheme shall be disposed of summarily before an industrial magistrate.

(2) Proceedings for an offence against Division 2 of Part IV shall be disposed of summarily before a Court of Coal Mines Regulation.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales apply to proceedings before an industrial magistrate for offences against this Act, the regulations, the rules or a scheme as if the proceedings under this Act were proceedings under that Act.

(9) Section 160 (o)—

After “regulations,” insert “an order under section 174 (5),”.

(10) (a) Section 174 (2) (mmm)—

Omit “and” where lastly occurring.

(b) Section 174 (2) (nnn), (ooo)—

At the end of section 174 (2) (nnn), insert:—

; and

(ooo) the regulation of washeries which service mines.

(c) Section 174 (5)—

After “owner”, insert “or manager”.

*In the name and on behalf of Her Majesty I assent to this Act.*

**J. A. ROWLAND,**  
*Governor.*

*Government House,*  
*Sydney, 15th May, 1985.*

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

