

# CONCURRENCE COPY

## MINES INSPECTION (AMENDMENT) BILL, 1984 (No. 2)

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### EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to revise the requirements of the Mines Inspection Act, 1901, relating to the appointment of a manager of a mine other than a mine of coal or a mine of shale (Schedule 1 (1));
  - (b) to regulate the delegation by a manager of such a mine of any of the manager's functions (Schedule 1 (2)); and
  - (c) to enable rules to be made under that Act to promote greater safety in the working of such a mine (Schedule 1 (3)).
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**MINES INSPECTION (AMENDMENT) BILL, 1984 (No. 2)**

No. , 1984.

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**A BILL FOR**

An Act to amend the Mines Inspection Act, 1901, to provide for further safety precautions in relation to mines other than mines of coal and mines of shale.

[MR HILLS—2 *May*, 1984.]

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*Mines Inspection (Amendment).*

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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 "Mines Inspection (Amendment) Act, 1984".

**Commencement.**

**2. (1)** Except as provided by subsection (2), this Act shall commence 10 on the date of assent to this Act.

**(2)** Section 3, in its application to Schedule 1 (1), and Schedule 1 (1) 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.

**Amendment of Act No. 75, 1901.**

**15 3.** The Mines Inspection Act, 1901, is amended in the manner set forth in Schedule 1.

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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE MINES INSPECTION ACT, 1901.

**20 (1) (a)** Section 5 (4)—

Omit "Where the total number of persons employed in a mine does not exceed twenty, it shall be sufficient for the manager to hold a permit.", insert instead "Notwithstanding subsection

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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

5 (3), a person who is the holder of a permit may be manager of a mine if the owner of the mine has obtained the written approval of the Chief Inspector to nominate the person as manager of the mine or if the total number of persons employed in the mine does not exceed 20.”.

## (b) Section 5 (4A), (4B)—

After section 5 (4), insert:—

10 (4A) Notwithstanding subsections (3), (4) and (5), where the Chief Inspector by notice in writing given to the owner of a mine directs the owner to nominate as manager of the mine a person who is the holder of such a certificate as is specified in the notice, a person other than the holder of such a certificate  
15 is not qualified to be manager of the mine.

(4B) The Chief Inspector shall not—

(a) give an approval under subsection (4) in relation to a mine unless the Chief Inspector is of the opinion that, having regard to the location of the mine, or the nature  
20 of the material mined, minimal knowledge or skill is required in the management of the mine; or

(b) give a notice under subsection (4A) in relation to a mine unless the Chief Inspector is of the opinion that, having regard to the location of the mine, the complexity  
25 of operations at the mine or the nature of the material mined, special knowledge or skill is required in the management of the mine.

## (c) Section 5 (6)—

Omit the subsection, insert instead:—

30 (6) Where a mine is worked at any time when there is no person nominated as manager of the mine, the owner of the mine is liable to a fine not exceeding \$500 and to a further



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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

5 fine not exceeding \$50 for every day on which the mine is worked without a person being nominated as manager of the mine.

## (2) Section 5A—

After section 5, insert:—

**Delegation by manager.**

5A. (1) A reference in this section—

- 10 (a) to a function includes a reference to a power, authority and duty; and
- (b) to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

15 (2) Subject to this section, the manager of a mine may, by instrument in writing, delegate to a person employed at the mine the exercise of such of the functions conferred or imposed by this Act on the manager of the mine as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

20 (3) The manager of a mine shall not, under subsection (1)—

- (a) delegate the power of delegation or a function prescribed for the purposes of this paragraph;
- (b) delegate a function to a person other than—

25 (i) a person who holds a certificate of competency as manager granted under this Act for the same class of mine as the mine to which the delegation relates; or

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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

5 (ii) a person in respect of whom, on the application of the manager of the mine made in a form approved by the Chief Inspector, an inspector has issued a permit to exercise the function proposed to be delegated.

10 (4) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(5) Notwithstanding any delegation made under this section by the manager of a mine, the manager may continue to exercise all or any of the functions delegated.

15 (6) Any act or thing done or suffered by a delegate while exercising a function delegated under this section by the manager of a mine has the same force and effect as if the act or thing had been done or suffered by the manager.

20 (7) An inspector may, at any time, revoke a permit referred to in subsection (3) (b) (ii) and, upon the revocation of such a permit, any delegation under this section to the holder of the permit shall be deemed to have been revoked.

(8) The manager of a mine shall, forthwith after making a delegation under this section, forward a copy of the instrument of delegation to an inspector.

25 (3) (a) Section 56 (1) (b) (vi)—

Omit “treated.”, insert instead “treated; and”.

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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

(b) Section 56 (1) (c)—

After section 56 (1) (b), insert:—

5 (c) make general rules for or with respect to—

- 10 (i) the monitoring, measurement and recording of noise levels, radiation levels and heat levels in or about a mine;
- (ii) the protection of persons employed in or about a mine from exposure to excessive noise or to radiation or heat stress;
- (iii) the provision of adequate lighting in or about a mine;
- 15 (iv) ensuring a safe level of vibration in machinery in or about a mine; or
- (v) ensuring the stability of tailings, dams, dumps and excavations that are part of, or consequential upon, the operations in or about a mine.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984



**MINES INSPECTION (AMENDMENT) ACT, 1984, No. 8**

**New South Wales**



ANNO TRICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. 8, 1984.**

An Act to amend the Mines Inspection Act, 1901, to provide for further safety precautions in relation to mines other than mines of coal and mines of shale. [Assented to, 31st May, 1984.]

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*Mines Inspection (Amendment).*

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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 "Mines Inspection (Amendment) Act, 1984".

**Commencement.**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 3, in its application to Schedule 1 (1), and Schedule 1 (1) 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.

**Amendment of Act No. 75, 1901.**

3. The Mines Inspection Act, 1901, is amended in the manner set forth in Schedule 1.

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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE MINES INSPECTION ACT, 1901.

(1) (a) Section 5 (4)—

Omit "Where the total number of persons employed in a mine does not exceed twenty, it shall be sufficient for the manager to hold a permit.", insert instead "Notwithstanding subsection



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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

(3), a person who is the holder of a permit may be manager of a mine if the owner of the mine has obtained the written approval of the Chief Inspector to nominate the person as manager of the mine or if the total number of persons employed in the mine does not exceed 20.”.

(b) Section 5 (4A), (4B)—

After section 5 (4), insert:—

(4A) Notwithstanding subsections (3), (4) and (5), where the Chief Inspector by notice in writing given to the owner of a mine directs the owner to nominate as manager of the mine a person who is the holder of such a certificate as is specified in the notice, a person other than the holder of such a certificate is not qualified to be manager of the mine.

(4B) The Chief Inspector shall not—

- (a) give an approval under subsection (4) in relation to a mine unless the Chief Inspector is of the opinion that, having regard to the location of the mine, or the nature of the material mined, minimal knowledge or skill is required in the management of the mine; or
- (b) give a notice under subsection (4A) in relation to a mine unless the Chief Inspector is of the opinion that, having regard to the location of the mine, the complexity of operations at the mine or the nature of the material mined, special knowledge or skill is required in the management of the mine.

(c) Section 5 (6)—

Omit the subsection, insert instead:—

(6) Where a mine is worked at any time when there is no person nominated as manager of the mine, the owner of the mine is liable to a fine not exceeding \$500 and to a further



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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

fine not exceeding \$50 for every day on which the mine is worked without a person being nominated as manager of the mine.

## (2) Section 5A—

After section 5, insert:—

**Delegation by manager.**

5A. (1) A reference in this section—

- (a) to a function includes a reference to a power, authority and duty; and
- (b) to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(2) Subject to this section, the manager of a mine may, by instrument in writing, delegate to a person employed at the mine the exercise of such of the functions conferred or imposed by this Act on the manager of the mine as are specified in the instrument of delegation and may, by a like instrument, revoke wholly or partly any such delegation.

(3) The manager of a mine shall not, under subsection (1)—

- (a) delegate the power of delegation or a function prescribed for the purposes of this paragraph;
- (b) delegate a function to a person other than—
  - (i) a person who holds a certificate of competency as manager granted under this Act for the same class of mine as the mine to which the delegation relates; or

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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

- (ii) a person in respect of whom, on the application of the manager of the mine made in a form approved by the Chief Inspector, an inspector has issued a permit to exercise the function proposed to be delegated.

(4) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(5) Notwithstanding any delegation made under this section by the manager of a mine, the manager may continue to exercise all or any of the functions delegated.

(6) Any act or thing done or suffered by a delegate while exercising a function delegated under this section by the manager of a mine has the same force and effect as if the act or thing had been done or suffered by the manager.

(7) An inspector may, at any time, revoke a permit referred to in subsection (3) (b) (ii) and, upon the revocation of such a permit, any delegation under this section to the holder of the permit shall be deemed to have been revoked.

(8) The manager of a mine shall, forthwith after making a delegation under this section, forward a copy of the instrument of delegation to an inspector.

- (3) (a) Section 56 (1) (b) (vi)—

Omit "treated.", insert instead "treated; and".



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*Mines Inspection (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE MINES INSPECTION ACT, 1901—*continued.*

## (b) Section 56 (1) (c)—

After section 56 (1) (b), insert:—

## (c) make general rules for or with respect to—

- (i) the monitoring, measurement and recording of noise levels, radiation levels and heat levels in or about a mine;
- (ii) the protection of persons employed in or about a mine from exposure to excessive noise or to radiation or heat stress;
- (iii) the provision of adequate lighting in or about a mine;
- (iv) ensuring a safe level of vibration in machinery in or about a mine; or
- (v) ensuring the stability of tailings, dams, dumps and excavations that are part of, or consequential upon, the operations in or about a mine.

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

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 31st May, 1984.*



