

Version No. 002
Occupational Health and Safety (Mines)
Regulations 2002

S.R. No. 104/2002

Version incorporating amendments as at 13 August 2004

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PART 1—PRELIMINARY

101. Objective

The objective of these Regulations is to protect people in mines against risks to their health and safety.

102. Authorising provision

These Regulations are made under section 59 of the **Occupational Health and Safety Act 1985**.

103. Commencement

These Regulations come into operation on 28 October 2002.

104. Definitions

(1) In these Regulations—

"Act" means the **Occupational Health and Safety Act 1985**;

"administrative control" means a system of work or a work procedure, and does not include—

- (a) an engineering control; or
- (b) the use of personal protective equipment;

"emergency services" means the persons in management or control of the fire authority, police authority and ambulance service;

"engineering control" means a physical control of any kind, and does not include—

- (a) an administrative control; or
- (b) the use of personal protective equipment;

"fatigue", in relation to an employee at a mine, means an acute or ongoing state of tiredness

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that exposes the employee or any other person at the mine to a risk to the employee's or other person's health and safety;

"major mining hazard" means a mining hazard that has the potential to cause an incident that causes, or poses a significant risk of causing, more than one death;

"mine" means—

- (a) a workplace at which work is being done under a mining licence granted under the **Mineral Resources Development Act 1990**; or
- (b) a workplace at which exploration, within the meaning of the **Mineral Resources Development Act 1990**, in the form of—
 - (i) underground work of any kind; or
 - (ii) drilling from the surface for coal-bed methane—

is being done under an exploration licence granted under the **Mineral Resources Development Act 1990**; or

- (c) in relation to a tourist mine within the meaning of the **Mineral Resources**

Reg. 104(1)
def. of
"mining
hazard"
amended by
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reg. 4.

Development Act 1990, those parts of the mine that are underground and all infrastructure and plant associated with the underground workings;

"mining hazard" means any activity, procedure, plant, process, substance, situation or other circumstance that could pose a risk to health and safety in relation to—

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- (a) ground control;
- (b) slope stability;
- (c) rock falls;
- (d) rock bursts;
- (e) susceptibility to seismic activity;
- (f) inrush of water or semi-solids;
- (g) shaft sinking or winding;
- (h) mining plant, including mobile plant and remote control equipment;
- (i) heavy transport equipment;
- (j) mine fires or explosions;
- (k) gas outbursts;
- (l) loss of ventilation;
- (m) airborne dust;
- (n) radiation from rock strata or other sources;
- (o) proximity to dangerous openings;
- (p) tailings dams;
- (pa) exposure to sodium cyanide and its reaction products;

(q) any other matter determined by the
Authority under regulation 106—
but does not include a "hazard" within the

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meaning of the Occupational Health and
Safety (Major Hazard Facilities) Regulations
2000;

"modification", in relation to a mine, means a
change to any workings, processes or plant,
including the introduction of new workings,
processes or plant, that has the effect of—

- (a) creating a mining hazard that has not
previously been identified; or
- (b) increasing the risk associated with a
mining hazard;

"operator", in relation to a mine, means the
employer in management and control of the
mine;

"prescribed mine" means—

- (a) an underground mine; or
- (b) a mine that is determined to be a
prescribed mine by the Authority under
regulation 105; or
- (c) a mine that is one of a class of mines
that is determined to be prescribed
mines by the Authority under
regulation 105;

"shaft" means any opening extending downwards from the surface or from a location underground and having an inclination to the horizontal of more than 15 degrees and is used for the purposes of raising or lowering persons or materials or for the intake or outlet of ventilation;

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"shaft conveyance" means a cage, skip, kibble or other contrivance in or on which persons ride up or down a shaft, but does not include any attachments to that cage, skip, kibble or other contrivance;

"winder" means an electrical or compressed air or hydraulic or other power driven unit, single or multi-drum, which by use of ropes, sheave wheels and a shaft conveyance, is used to raise or lower persons or materials from level to level and includes a friction winder.

- (2) In these Regulations, a person is "adversely affected" by alcohol or drugs if the person's judgement or capacity is impaired to the extent that the person may expose the person's or another person's health and safety to a risk.

105. Determination that mine is a prescribed mine

- (1) The Authority may determine that a mine is a prescribed mine, or that a class of mines are prescribed mines, for the purposes of these Regulations.
- (2) The Authority must cause notice of a determination under this regulation to be published in the Government Gazette within 30 days after the determination is made.
- (3) A determination under this regulation takes effect on the day it is published in the Government Gazette.

106. Determination of mining hazard

- (1) The Authority may determine an activity, procedure, plant, process, substance, situation or other circumstance to be a mining hazard for the purposes of these Regulations.
- (2) The Authority must cause notice of a determination under this regulation to be

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published in the Government Gazette within 30 days after the determination is made.

- (3) A determination under this regulation takes effect on the day it is published in the Government Gazette.
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PART 2—GENERAL PROVISIONS

201. Duties in relation to "employees"

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In Part 3 of these Regulations and in regulations 402 and 403—

- (a) **"employee"** includes an independent contractor engaged by the operator of a mine and any employees of the independent contractor; and
- (b) duties of the operator extend to an independent contractor and the independent contractor's employees in relation to matters over which the operator—
 - (i) has control; or
 - (ii) would have had control but for any agreement between the operator and the independent contractor to the contrary.

202. Exemptions

- (1) The Authority may exempt the operator of a mine, or the operators of a class of mines, from any requirement of, or prohibition in, these Regulations if the Authority is satisfied that the person to whom the exemption is granted will achieve a level of health and safety at the mine that is at least equivalent to the level that would be achieved if the requirement or prohibition were complied with.
- (2) An exemption granted under this regulation—

- (a) may be subject to such terms and conditions as the Authority considers reasonable, including terms and conditions as to—

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- (i) the commencement and duration of the exemption;
 - (ii) control measures that must be adopted by the operator exempted in order to protect persons at the mine against risks to their health and safety;
 - (iii) a requirement that the operator exempted give notice that the exemption has been granted, and of any terms and conditions to which the exemption is subject, to any specified person who may be affected by the exemption; and
 - (b) must be in writing; and
 - (c) must specify—
 - (i) the person exempted; and
 - (ii) the mine to which the exemption relates; and
 - (iii) the requirement or prohibition to which the exemption relates; and
 - (iv) the activity or thing for which the exemption is granted; and
 - (v) the terms and conditions to which the exemption is subject.
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- (3) A person to whom an exemption is granted must comply with the terms and conditions to which the exemption is subject.

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- (4) The operator of a mine in relation to which an exemption is granted must, within 30 days after the exemption is granted, inform any health and safety representatives at the mine that the exemption has been granted.
- (5) The Authority must cause notice of an exemption granted under this regulation to be published in the Government Gazette within 30 days after being granted.
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PART 3—SAFETY DUTIES OF MINE OPERATORS

Division 1—Risk control in all mines

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301. Duty to control risk

- (1) The operator of a mine must adopt control measures that—
 - (a) eliminate; or
 - (b) if it is not practicable to eliminate, reduce so far as is practicable—
risk to health and safety associated with any mining hazards at the mine.
- (2) For the purpose of complying with sub-regulation (1), the operator must, so far as is practicable, use one or any combination of the following control measures—
 - (a) the substitution of a new activity, procedure, plant, process or substance for that which is related to the mining hazard being addressed;
 - (b) the isolation of persons from the mining hazard;
 - (c) engineering controls.
- (3) If an operator has complied with sub-regulation (2) so far as is practicable and a risk to health and safety remains, the operator must, so far as is practicable, use administrative controls.

- (4) If an operator has complied with sub-regulations (2) and (3) so far as is practicable and a risk to health and safety remains, the operator must provide appropriate personal protective equipment

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to persons at risk.

302. Duty to identify mining hazards and assess risk

- (1) The operator of a mine must —
 - (a) identify all mining hazards at the mine; and
 - (b) assess the risks to health and safety associated with all mining hazards at the mine.
- (2) In assessing the risks to health and safety associated with a mining hazard, the operator must have regard to—
 - (a) the nature of the mining hazard; and
 - (b) the likelihood of the mining hazard causing, or contributing to, any harm to any person; and
 - (c) the severity of the harm that may be caused.

303. Review and revision

- (1) In order to ensure that an operator of a mine is complying with regulation 301(1) by adopting appropriate control measures, the operator must review, and as necessary revise—

- (a) the identification of mining hazards; and
- (b) the assessment of risks to health and safety associated with mining hazards; and

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- (c) the control measures adopted for the control of risk.
- (2) A review and revision must be conducted—
- (a) before any modification is made to the mine;
 - (b) after any incident involving a mining hazard occurs at the mine;
 - (c) in the circumstances described in regulation 308(5);
 - (d) whether or not the circumstances mentioned in paragraphs (a), (b) or (c) arise, at least once each 3 years.

Division 2—Specific safety duties in all mines

304. Effect of this Division

Nothing in this Division limits the generality of the requirements imposed by Division 1.

305. Who may enter mine

The operator of a mine must ensure that—

- (a) no person, other than an inspector, enters the mine without permission;
- (b) no person under the age of 16 years is employed at the mine;

- (c) no employee under the age of 18 years works underground.

306. Alcohol and drugs

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- (1) The operator of a mine must develop and implement strategies to protect persons at the mine from any risk to their health and safety arising from the consumption of alcohol or the use of drugs by any person.
 - (2) Strategies under this regulation must include the introduction of control measures on the presence and use of alcohol and drugs at the mine during working hours.
 - (3) Without limiting the generality of sub-regulations (1) and (2), the operator of a mine must ensure that—
 - (a) a person who, in the opinion of the operator, is adversely affected by alcohol or drugs does not enter or remain at the mine; and
 - (b) a person only uses drugs at the mine if a registered medical practitioner has prescribed the drugs and authorised their use at the mine.
 - (4) The operator must develop and implement strategies under this regulation, other than actions taken to comply with sub-regulation (3), by 28 October 2003.

307. Employee fatigue

- (1) The operator of a mine must develop and implement strategies for the control of any risks to health and safety associated with employee fatigue.

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- (2) Strategies under this regulation must include work arrangements that eliminate employee fatigue so far as is practicable.
 - (3) The operator must develop and implement strategies under this regulation by 28 October 2003.

308. Monitoring employees' health

- (1) The operator of a mine must provide for the ongoing monitoring of the health of an employee
—
 - (a) who, in view of the nature of the employee's work at the mine, is exposed to a mining hazard that may reasonably be expected to have a detrimental effect on the employee's health; or
 - (b) if the operator, in consultation with a registered medical practitioner, reasonably believes that, in view of the nature of the employee's work at the mine, the health of the employee exposes the employee or any other person at the mine to a risk to the employee's or other person's health and safety.

- (2) The monitoring of an employee's health may include a medical examination and must be conducted—

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- (a) only in relation to the employee's work at the mine;
- (b) by, or under the supervision of, a registered medical practitioner;
- (c) at a frequency determined by the operator in consultation with a registered medical practitioner;
- (d) at the operator's expense.
- (3) The operator of a mine must, if practicable—
- (a) consult with the health and safety representative of each designated work group at the mine; and
- (b) if there is no designated work group or health and safety representative, consult with the employees themselves, or with agreed representatives of the employees—
- in relation to the nature of the health monitoring.
- (4) The operator must, in relation to health monitoring that is conducted in relation to an employee, ensure that—
- (a) the person who conducted the monitoring prepares a report of the results of the monitoring, that includes—

- (i) an explanation of the results of the monitoring; and

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- (ii) any indications of detrimental health effects identified by the registered medical practitioner who conducted or supervised the monitoring; and
 - (iii) any recommendations by the registered medical practitioner as to measures that the operator should take in relation to the employee's work;
- (b) a copy of the report is provided—
- (i) to the operator; and
 - (ii) to the employee on the same day that it is provided to the operator; and
 - (iii) to any other person, only if the employee authorises such provision in writing.
- (5) If a report provided to the operator of a mine indicates detrimental health effects in relation to an employee and, as a result of the report, the operator removes the employee from the employee's work or assigns the employee to alternative work, the operator must—
- (a) so notify the Authority in writing; and

- (b) review, and as necessary revise, the control measures adopted under regulation 301 in relation to the employee's work.

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- (6) If an employee ceases employment at a mine, the operator must ensure that any report prepared under this regulation that relates to the employee and is held by the operator is returned to the employee.
- (7) The operator must notify the Authority in writing of the name of each registered medical practitioner involved in the conduct of health monitoring under this regulation.
- (8) Before engaging a new employee at a mine, the operator of the mine must inform the prospective employee about the health monitoring program that is provided under this regulation.

309. Communications

The operator of a mine must ensure that—

- (a) if an employee is working alone at an isolated location at the mine, that, so far as is practicable, there are available means of constant communication with the employee;
- (b) there is a system by which—
 - (i) the supervisor of each outgoing shift provides a written report to the supervisor of the incoming shift, in relation to the state of the mine workings and plant, and any other

matters that relate to health and safety;
and

- (ii) the supervisor of the incoming shift

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communicates the content of the report
to the employees on that shift.

Division 3—Additional duties in prescribed mines

310. Effect of this Division

Nothing in this Division limits the generality of
the requirements imposed by Division 1 on
operators of prescribed mines.

311. Safety management system

- (1) The operator of a prescribed mine must establish
and implement a safety management system as the
principal means of ensuring the safe operation of
the mine.
- (2) The safety management system must—
 - (a) provide a comprehensive and integrated
management system for all control measures
adopted under regulation 301;
 - (b) be documented.
- (3) The document must contain a description of—
 - (a) the operator's safety policy;
 - (b) the systems, procedures and other control
measures by means of which risks to health

- and safety associated with mining hazards are to be controlled;
- (c) the performance standards for measuring the

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- effectiveness of the safety management system, that—
- (i) relate to all aspects of the safety management system;
 - (ii) are sufficiently detailed to enable the operator to ensure that the effectiveness of all aspects of the safety management system is apparent from the documentation;
 - (iii) include steps to be taken to improve continually all aspects of the safety management system;
- (d) the way in which performance standards are to be met;
- (e) the process, including methodology and frequency, for the audit of the effectiveness of the safety management system against the performance standards.

- (4) The document must—

- (a) be so set out and expressed that its contents are readily comprehensible to persons who use it;

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- (b) be available on request for inspection by an inspector.
 - (5) The operator must review, and as necessary revise, the safety management system if—
 - (a) a modification is to be made to the mine; or
 - (b) an incident involving a mining hazard occurs; or
 - (c) whether or not the circumstances mentioned in paragraphs (a) or (b) arise, at least once each 3 years.

312. Safety assessment for major mining hazards

- (1) In order to assess risk associated with major mining hazards, the operator of a prescribed mine must conduct a comprehensive and systematic safety assessment.
- (2) A safety assessment must involve an investigation and analysis of the major mining hazards that provide the operator with a detailed understanding of all aspects of risk to health and safety associated with major mining hazards.
- (3) In conducting a safety assessment, the operator must—
 - (a) use assessment methodologies (whether quantitative or qualitative, or both) that are

- appropriate to the major mining hazards
being considered;
- (b) consider the major mining hazards

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- cumulatively as well as individually.
- (4) The operator must document all aspects of the safety assessment, and the documentation must—
- (a) describe the methodology or methodologies used in the investigation and analysis;
 - (b) state—
 - (i) the nature of each major mining hazard;
 - (ii) the likelihood of the major mining hazard causing, or contributing to, any harm to any person;
 - (iii) the severity of the harm that may be caused;
 - (c) contain judgements about the matters referred to in paragraph (b)(ii) and (iii), and the reasons for those judgements;
 - (d) describe all measures considered for the control of risk associated with major mining hazards;
 - (e) describe the reasons for adopting, or rejecting, all control measures considered;
 - (f) be so set out and expressed that its contents are readily comprehensible to persons who use it;
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- (g) be available on request for inspection by an inspector.

313. Testing control measures for major mining hazards

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The operator of a prescribed mine must, in relation to the control of risk associated with major mining hazards, test all control measures as often as necessary to ensure compliance with regulation 301 in relation to those hazards.

314. Safety role for employees

- (1) The operator of a prescribed mine must develop a role for the operator's employees, including the specific procedures they would be required to follow, to assist the operator in relation to—
 - (a) identifying mining hazards at the mine under regulation 302;
 - (b) conducting a safety assessment under regulation 312;
 - (c) adopting, reviewing and testing control measures under regulations 301, 303 and 313;
 - (d) establishing and implementing a safety management system under regulation 311.
- (2) The operator of a prescribed mine must review the role of the employees developed under this regulation whenever there is any change of

circumstances, including a modification to the mine, that would require additional or different knowledge or skills on the part of employees to perform the role.

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- (3) In developing or reviewing the employees' role under this regulation, the operator of a prescribed mine must, if practicable—
- (a) consult with the health and safety representative of each designated work group at the mine; and
 - (b) if there is no designated work group or health and safety representative, consult with the employees themselves, or with agreed representatives of the employees.

315. Shafts and winding

The operator of a prescribed mine must—

- (a) ensure that every winding system for a shaft at the mine includes—
 - (i) ropes that will enable the shaft conveyance to bear the weight that can reasonably be expected to be borne by the shaft conveyance; and
 - (ii) controls and limiting devices to prevent any shaft conveyance from being

- overwound or overrun or from travelling at an unsafe speed; and
- (iii) devices that detect slack rope or drum

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- slip conditions, or tail rope malfunctions; and
- (iv) devices that cause the winder to stop when a condition or malfunction referred to in sub-paragraph (iii) is detected; and
- (v) an appropriate means of communication to and from every entrance to the winder room that is in use; and
- (b) ensure that the ropes in the winding system of any shaft are tested regularly to ensure the safe performance of the ropes; and
- (c) if a shaft conveyance carrying persons and a shaft conveyance carrying material operate in the same shaft, ensure that the persons being carried are adequately protected from the shaft conveyance carrying material and from any material that might leave its shaft conveyance and cause injury; and
- (d) if a shaft conveyance that combines a cage and skip is used, ensure that material is not carried in the skip while persons are being carried in the cage; and
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- (e) ensure that energy lockout devices are fitted to all mechanical and electrical plant associated with any shaft at the mine, including any mechanical and electrical plant

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- associated with the operation, maintenance or use of the shaft; and
- (f) ensure that material or plant being carried in shaft conveyances—
 - (i) does not protrude from the shaft conveyance while the shaft conveyance is moving; and
 - (ii) is so secured within the shaft conveyance that it cannot leave the shaft conveyance except by being removed deliberately; and
 - (g) ensure that, in relation to the automatic winding system for any shaft at the mine—
 - (i) the functions of the winder can be monitored from outside the winder house; and
 - (ii) warning systems are installed to alert persons at the mine of any emergency in the shaft; and
 - (iii) radio or other means of communication between the surface and any shaft conveyance carrying persons is provided and maintained; and
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- (h) ensure that facilities for loading material or plant onto or into a shaft conveyance are designed and operated so as to prevent spillage into the shaft.

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316. Progress of mine workings

The operator of a prescribed mine must—

- (a) if any underground mine workings are, or may be, near or approaching an area that contains water or flammable, toxic or noxious gases that may pose a risk to the health and safety of any person at the mine—
 - (i) ensure that the person is at all times aware of the location of the faces being advanced; and
 - (ii) cause bore-holes to be drilled from the workings that will indicate the presence and location of the water or gas; and
- (b) if any underground workings are proposed to be connected to other workings (including disused workings), ensure that the other workings are inspected for water, gas, misfires, butts and any other circumstance that may pose a risk to the health and safety of any person at the mine; and
- (c) if two working faces are approaching each other, ensure that one of the workings is stopped, made safe and barricaded as soon as practicable before the distance separating the faces is reduced to 10 metres.

317. Emergency exit

The operator of a prescribed mine into which a shaft has been sunk or a decline or adit has been

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driven must, so far as is practicable—

- (a) provide for a means of exiting the mine workings in addition to the hoisting shaft or the exit normally used; and
- (b) ensure that the additional exit is—
 - (i) maintained so that it remains a functional exit; and
 - (ii) marked or signposted so that it can be readily located in the event of an incident involving a major mining hazard.

318. Filling

The operator of a prescribed mine must, so far as is practicable, ensure that the material used for the filling of mined out areas does not pose a risk to the health and safety of any person.

319. Working environment

- (1) The operator of a prescribed mine must ensure that—
 - (a) the air throughout the mine is maintained at a safe level;

- (b) the atmosphere is subject to controls that prevent thermal stress;
- (c) the moisture content of the atmosphere is

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- maintained at a level that enables work to be done safely;
 - (d) lighting within the mine is sufficient to enable work to be done safely.
- (2) Without limiting the meaning of sub-regulation (1)(a), the air is at a safe level if the air—
- (a) contains a safe oxygen level; and
 - (b) does not contain a harmful level of any contaminant or impurity, including a concentration of any hazardous substance that is above the exposure standard (if any) for that hazardous substance or any or all of its ingredients.
- (3) In sub-regulation (2)—
- (a) **"exposure standard"** has the same meaning as in the Occupational Health and Safety (Hazardous Substances) Regulations 1999;
 - (b) **"hazardous substance"** has the same meaning as in the Occupational Health and Safety (Hazardous Substances) Regulations 1999;
 - (c) **"safe oxygen level"** has the same meaning as in the Occupational Health and Safety (Confined Spaces) Regulations 1996.
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320. Ventilation system

- (1) The operator of a prescribed mine must ensure that—

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- (a) ventilation circuits at the mine do not allow airflows to recirculate;
 - (b) structures that regulate airflow are maintained in operating condition;
 - (c) air does not pass through so many work areas that it becomes unfit to breathe;
 - (d) dead-end openings are not worked unless adequate auxiliary ventilation is provided;
 - (e) underground workings are not ventilated with contaminated air.
- (2) The operator must—
- (a) regularly monitor and test the operation of all aspects of the ventilation system at the mine, in order to ensure that the system complies with sub-regulation (1);
 - (b) prepare and maintain a record of the monitoring and testing of the ventilation system.
- (3) The record of the monitoring and testing of the ventilation system must—
- (a) be so set out and expressed that its contents are readily comprehensible to persons who use it;
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- (b) be available on request for inspection by an inspector.

321. Prohibitions

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The operator of a prescribed mine must not allow—

- (a) an internal combustion engine (other than a compression ignition engine); or
- (b) polyurethane foam—
to be used underground.

322. Emergency planning

- (1) The operator of a prescribed mine must prepare an emergency plan for the mine.
- (2) The operator must use the emergency plan as the primary means of responding to incidents involving a significant likelihood of a serious injury or death.
- (3) The emergency plan must—
 - (a) address all aspects of emergency response, including—
 - (i) ensuring that a system exists that enables all persons within the mine at any given time to be promptly located;
 - (ii) the provision of adequate rescue equipment;

- (iii) ensuring that persons trained in the use of rescue equipment are available on site, or are on call whenever any person is working at the mine;

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- (b) be prepared in conjunction with—
 - (i) the emergency services who have responsibility for the area in which the mine is located;
 - (ii) in relation to major mining hazards that could detrimentally affect the health or safety of people in the area surrounding the mine, the municipal council or councils in that area;
 - (c) be documented;
 - (d) be so set out and expressed that its contents are readily comprehensible to persons who use it;
 - (e) be available on request for inspection by an inspector.
- (4) After preparing the emergency plan, the operator must—
- (a) keep a copy of the emergency plan at the mine specifically for the use of the emergency services who have responsibility for the area in which the mine is located; and
 - (b) inform the emergency services of the location of the copy of the emergency plan; and
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- (c) forward a copy of the emergency plan to each of the emergency services.
- (5) The operator must, at least annually—

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- (a) test the emergency plan in order to ensure its continued effectiveness; and
 - (b) take all necessary steps to arrange for the emergency services who have responsibility for the area in which the mine is located to participate in those tests.

323. Self-rescue

- (1) The operator of an underground mine must ensure that every person who goes underground—
 - (a) is, if practicable, provided with a self-contained self-rescuer or, if this is not practicable, is provided with a filter self-rescuer; and
 - (b) is trained in the operation and use of the self-rescuer provided.
- (2) This regulation does not apply in relation to a person (including a guide, if any) participating in an organised tour at a tourist mine within the meaning of the **Mineral Resources Development Act 1990**.

324. Plan of mine

- (1) The operator of a prescribed mine must ensure that a detailed plan of the mine is kept at the mine.
- (2) The plan must clearly show—

- (a) the workings, including disused workings;
- (b) the ventilation system, including all ventilation fans;

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- (c) the location of switchboards, transformers and other fixed plant associated with the distribution of electricity;
 - (d) the location of telephones and other fixed plant associated with the radio and telecommunications systems;
 - (e) water dams and tailings dams;
 - (f) natural features surrounding the mine;
 - (g) places where hydrocarbons or explosives are stored;
 - (h) emergency exits.
- (3) The plan must be revised regularly so that it always accurately shows which mine workings are still in use and which are disused.
 - (4) The plan must be made available to an inspector on request.
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PART 4—CONSULTATION AND INFORMATION

401. Consultation

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- (1) The operator of a mine who is—
- (a) identifying mining hazards at the mine under regulation 302; or
 - (b) assessing risk to health and safety associated with mining hazards at the mine under regulation 302 or conducting a safety assessment under regulation 312; or
 - (c) adopting control measures under regulation 301 or reviewing and revising them under regulation 303; or
 - (d) establishing and implementing a safety management system under regulation 311; or
 - (e) developing and implementing strategies under regulation 306 or regulation 307; or
 - (f) preparing, or reviewing and revising, an emergency plan under regulation 322—
- must, if practicable, consult on the matters referred to in this sub-regulation with the health and safety representative of each designated work group at the mine.
- (2) If, after consulting with health and safety representatives, the operator adopts a control measure in relation to a major mining hazard, the operator must inform the health and safety representatives of—
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- (a) the reasons for adopting the measure;
- (b) the reasons for rejecting any alternative control measures that had been discussed

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during the consultation.

- (3) If there is no designated workgroup or health and safety representative, the operator must, if practicable, consult with the employees themselves, or with agreed representatives of the employees, as required by this regulation in relation to health and safety representatives.

402. Informing, instructing and training

- (1) The operator of a mine must provide employees at the mine with information, instruction and training in relation to—
 - (a) mining hazards at the mine;
 - (b) control measures adopted under regulation 301;
 - (c) the implementation of the safety management system established under regulation 311;
 - (d) the strategies developed and implemented under regulation 306 or regulation 307;
 - (e) the emergency plan prepared under regulation 322.
- (2) The information, instruction and training must be such as is necessary to enable employees to

perform their work in a manner that is safe and without risks to health.

(3) The operator must ensure that—

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- (a) a record is kept of the training provided;
- (b) the training provided is reviewed and revised so as to remain relevant and effective.

403. Further information and availability of documents

The operator of a prescribed mine must—

- (a) inform employees about the content of the safety management system established under regulation 311 for the mine; and
- (b) ensure that—
 - (i) the documented safety management system established under regulation 311; and
 - (ii) the emergency plan prepared under regulation 322; and
 - (iii) the plan of the mine prepared under regulation 324—

are available to employees.

404. Response to employee alert

An operator of a prescribed mine who receives information about a major mining hazard from an employee under regulation 502(c) must inform the employee of what, if any, investigative or other

action has been taken in response to the information.

405. Information to visitors

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The operator of a mine must ensure that any person other than an employee who enters a mine is, as soon as possible after entering—

- (a) informed about any mining hazards to which the person might be exposed while at the mine;
 - (b) instructed in the safety precautions the person should take while at the mine;
 - (c) in the case of a prescribed mine, instructed in the actions the person should take in the event of the emergency plan being activated while the person is at the mine.
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PART 5—DUTIES OF EMPLOYEES

501. Duties of employees at all mines

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(1) An employee at a mine—

- (a) must wear or use safety apparel and other personal protective or rescue equipment provided by the operator under these Regulations in accordance with instructions given by the operator;
- (b) must follow all other instructions given by the operator in complying with any provision of these Regulations;
- (c) must alert immediate co-workers to any mining hazard of which he or she becomes aware;
- (d) who observes any person who appears to be in such a condition as to be a danger to himself or herself or to any other person at the mine, must inform the operator of the circumstance;
- (e) must not wilfully damage any safety apparel and other personal protective or rescue equipment provided by the operator under these Regulations;
- (f) must not enter or remain at the mine if adversely affected by alcohol or drugs;
- (g) must not, without the permission of the operator, take into the mine—

- (i) any alcohol; or
- (ii) any drugs that may adversely affect the employee (whether or not a medical

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practitioner has prescribed the drugs
and authorised their use at work).

- (2) An employee at a mine must, in the event of an incident occurring that involves a mining hazard, take appropriate corrective action in accordance with the instruction and training the employee has received under regulation 402.
- (3) An employee taking corrective action under sub-regulation (2)—
 - (a) must do so without placing the employee or any other person at risk;
 - (b) must do so even if such corrective action could interrupt the operation of the mine.
- (4) Anything done in good faith by an employee under sub-regulation (2) is to be taken to be done in the course of the employee's employment.

502. Major mining hazards in prescribed mines

An employee at a prescribed mine must—

- (a) participate in the testing, under regulation 322, of the emergency plan for the mine;
- (b) follow the emergency plan for the mine when it is activated;

- (c) immediately inform the operator of any circumstance of any kind that he or she considers might be a major mining hazard.

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**PART 6—AMENDMENT OF OTHER REGULATIONS MADE
UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT
1985**

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**601. Occupational Health and Safety (Certification of
Plant Users and Operators) Regulations 1994**

(1) In regulation 6 of the Occupational Health and
Safety (Certification of Plant Users and
Operators) Regulations 1994—

(a) **insert** the following definitions—

' **"mine"** means—

(a) a workplace at which work is
being done under a mining licence
granted under the **Mineral
Resources Development Act
1990**; or

(b) a workplace at which exploration,
within the meaning of the
**Mineral Resources Development
Act 1990**, in the form of—

(i) underground work of any
kind; or

(ii) drilling from the surface for
coal-bed methane—

is being done under an exploration
licence granted under the **Mineral
Resources Development Act
1990**; or

- (c) in relation to a tourist mine within the meaning of the **Mineral Resources Development Act 1990**, those parts of the mine that

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are underground and all infrastructure and plant associated with the underground workings;

"shaft conveyance" means a cage, skip, kibble or other contrivance in or on which persons ride up or down a shaft, but does not include any attachments to that cage, skip, kibble or other contrivance;

"winder" means an electrical or compressed air or hydraulic or other power driven unit, single or multi-drum, which by use of ropes, sheave wheels and a shaft conveyance, is used to raise or lower persons or materials from level to level and includes a friction winder.';

- (b) in paragraph (b) of the definition of "competency standard", after "time;" **insert** "and";
- (c) in the definition of "competency standard", after paragraph (b) **insert**—
- "(c) in respect of winder operation, a competency standard for winder operations published by the Authority and amended from time to time;".

- (2) In Schedule 1 to the Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994, after clause 20 **insert—**

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"20A. Winder operation certificate

The scope of the work for this certificate covers the operation of winders for the lowering and raising of personnel and materials in mines."

- (3) A person who, immediately before 28 October 2002, holds a winder driver permit under regulation 4.37 of the Mineral Resources (Health and Safety) Regulations 1991 is deemed to hold a certificate of competency referred to in clause 20A of Schedule 1 to the Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994.

602. Occupational Health and Safety (Confined Spaces) Regulations 1996

In regulation 4(1) of the Occupational Health and Safety (Confined Spaces) Regulations 1996—

- (a) in the definition of "confined space", for "shaft, well, trench, tunnel" **substitute** "well, or any shaft, trench or tunnel (except where the shaft, trench or tunnel is a mine or is part of the workings of a mine)";
- (b) **insert** the following definition—
- ' **"mine"** means—

- (a) a workplace at which work is being done under a mining licence granted under the **Mineral Resources Development Act**

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1990; or

- (b) a workplace at which exploration, within the meaning of the **Mineral Resources Development Act 1990**, in the form of—

- (i) underground work of any kind; or

- (ii) drilling from the surface for coal-bed methane—

is being done under an exploration licence granted under the **Mineral Resources Development Act 1990; or**

- (c) in relation to a tourist mine within the meaning of the **Mineral Resources Development Act 1990**, those parts of the mine that are underground and all infrastructure and plant associated with the underground workings;'.

603. Occupational Health and Safety (Incident Notification) Regulations 1997

- (1) In regulation 5 of the Occupational Health and Safety (Incident Notification) Regulations 1997 **insert** the following definition—

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' **"mine"** means—

- (a) a workplace at which work is being done under a mining licence granted under the **Mineral Resources Development Act 1990**; or
- (b) a workplace at which exploration, within the meaning of the **Mineral Resources Development Act 1990**, in the form of—
 - (i) underground work of any kind; or
 - (ii) drilling from the surface for coal-bed methane—is being done under an exploration licence granted under the **Mineral Resources Development Act 1990**; or
- (c) in relation to a tourist mine within the meaning of the **Mineral Resources Development Act 1990**, those parts of the mine that are underground and all infrastructure and plant associated with the underground workings;'.

- (2) In regulation 8 of the Occupational Health and Safety (Incident Notification) Regulations 1997—

- (a) in paragraph (f), for "object." **substitute**
"object; or";
- (b) after paragraph (f), **insert—**

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"(g) in a mine—

- (i) the overturning or collapse of any plant;
- (ii) the inrush of water, mud or gas;
- (iii) the interruption of the main system of ventilation."

604. Occupational Health and Safety (Major Hazard Facilities) Regulations 2000

- (1) After regulation 701 of the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 **insert—**

"701A. Notification by certain mines

- (1) A person who, immediately before 28 October 2002, is the **operator** of a **major hazard facility** that is a mine within the meaning of the Occupational Health and Safety (Mines) Regulations 2002 must notify the **Authority** in order to obtain registration of the mine as a **major hazard facility** under this Part.
- (2) Notification under this regulation must be given by 1 December 2002."

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- (2) After regulation 707(1) of the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 **insert—**

"(1A) If the Authority receives a notification under regulation 701A, the Authority must immediately register the **major hazard facility**".

- (3) In regulation 709(2)(b) of the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000, for "regulation 707(2) or (3)" **substitute** "regulation 707(1A), (2) or (3)".
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ENDNOTES

1. General Information

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Endnotes

The Occupational Health and Safety (Mines) Regulations 2002, S.R. No. 104/2002 were made on 22 October 2002 by the Governor in Council under section 59 of the **Occupational Health and Safety Act 1985**, No. 10190/1985 and came into operation on 28 October 2002.

The Occupational Health and Safety (Mines) Regulations 2002 will sunset 10 years after the day of making on 22 October 2012 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

This Version incorporates amendments made to the Occupational Health and Safety (Mines) Regulations 2002 by statutory rules, subordinate instruments and Acts.

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Endnotes

Occupational Health and Safety (Mines) (Amendment) Regulations 2004,
S.R. No. 105/2004

Date of Making: 10.8.04

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3. Explanatory Details

No entries at date of publication.

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Endnotes
