

LEGISLATION UPDATE

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COMMENCEMENT OF AMENDMENTS TO THE OH&S ACT AND OH&S REGULATIONS

As of the 17 May 2004, the *Mining Legislation Amendment (Health and Safety) Act 2002* was fully commenced. In addition, provisions of the Occupational Health and Safety Amendment (Mines) Regulation 2004 will take effect in two stages - on 17 May 2004 and 1 November 2004.

Mining Legislation Amendment (Health and Safety) Act 2002

The amendments included in the *Mining Legislation Amendment (Health and Safety) Act 2002* primarily correct inadequacies in existing legislation that affects the administration of the *Occupational Health and Safety Act 2000* (the OHS Act) in respect of mines.

The main effect is to enable the Minister for Mineral Resources to appoint officers of the Department of Mineral Resources (DMR) as inspectors under the OHS Act.

Amendments to the Occupational Health and Safety Regulation 2001 in respect of mines

The Occupational Health and Safety Amendment (Mines) Regulation 2004, which amends the Occupational Health and Safety Regulation 2001 (OHS Regulation) in respect of mines, has two main effects:

- Provides administrative support for the functions of DMR officers who are appointed as inspectors under the OHS Act; and
- Implements hazard-specific International Labour Organisation Conventions by applying certain provisions of the OHS Regulation to coal mines.

The amendments also create greater consistency in the standards required to be met across all sectors of the NSW mining industry and by all of NSW industry in relation to asbestos and atmospheric contaminants.

The changes to the OHS Regulation do not impact on those provisions that already applied to all mines; namely those for consultation, the manufacture and supply of hazardous substances, and the prohibition and notification requirements in relation to chrysotile asbestos.

A summary of the changes made to the application of OHS Regulation provisions is provided overleaf. This is an indication only and mines should become familiar with the exact changes and their commencement dates.

Copies of the Occupational Health and Safety Amendment (Mines) Regulation 2004 are available on the Department's internet site at the following location <http://www.minerals.nsw.gov.au/safety/legislation.htm>.

FURTHER INFORMATION CAN BE OBTAINED FROM **MR CHRIS ELLICOTT - (02) 9901 8412**
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Changes to the application of the Occupational Health and Safety Regulation 2001 to mines

The provisions of the OHS Regulation that apply to mines will be detailed in a new Schedule 4, which has been inserted into the regulation.

The employer and controller of premises have specific duties under the Occupational Health and Safety Regulation 2001 in respect of mines. It should be noted that for the purposes of OHS Regulation provisions, an employer may include a self-employed person.

As of 17 May 2004, the following apply to all mines:

- All provisions relating to the management of asbestos of any form, including prohibition and notification requirements in relation to its use.
- Requirements for applying for exemptions and review of decisions in relation to the application of a provision to a mine.

As of 1 November 2004, the following will also apply:

- Employers will have certain responsibilities in relation to risk management in coal mines. These provisions will operate in concert with similar requirements for mine owners under existing coal mine regulations.
- Specific control measures for atmospheric contaminants, including all exposure standards, will apply to all mines.
- Provisions for noise management, manual handling and the use of hazardous substances in general will apply to coal mines, and requirements for working in confined spaces will apply to the surface parts of coal mines.

The OHS Regulation will be administered and enforced in mines by the Department of Mineral Resources. However, in some circumstances mines will need to communicate directly with WorkCover NSW - for example, when applying for an exemption from an asbestos-related provision or providing notification on the use of asbestos.