

Quick guide

Work Health and Safety (Mines and Petroleum Sites) Amendment Regulation 2018

March 2018

When do the amendments take effect?

The amendments to the regulation will take effect on 13 April 2018.

Overview

The [Work Health and Safety \(Mines and Petroleum Sites\) Amendment Regulation 2018](#) (the **Amendment Regulation**) is made under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (the **Act**) which regulates work health and safety at mines and petroleum sites in New South Wales.

The Amendment Regulation will amend the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 to address recent work health and safety issues, to ensure the policy intent of the legislation is achieved and to remove regulatory burden.

Key issues addressed by the Amendment Regulation include the following:

- To require an opal mine operator to complete a course of training relating to health and safety at opal mines every five years. Current operators of an opal mine have until 13 April 2023 to undertake the refresher.
- To require the operator of a mine or petroleum site to notify the regulator of any change to the operator's contact details within 28 days of the change.
- To update the requirements for the use of explosion-protected electrical plant in a hazardous zone in an underground coal mine.
- To remove provisions relating to a mine operator's obligations to monitor the health of mine workers and instead enable the regulator to direct persons conducting a business or undertaking at a mine or petroleum site to provide health monitoring to workers. (Note: the health monitoring obligations under the *Work Health and Safety Act 2011* (WHS Act 2011) continue to apply).
- To require the operator of a petroleum site to consult with workers at the site in relation to health and safety risks and management (as mine operators are currently required to do).
- To include various events that occur at mines as high-potential incidents or notifiable incidents, which are required to be notified to the regulator by the mine operator.
- To make it an offence for a person conducting a business or undertaking at an underground coal mine to use certain kinds of plant in the mine unless the person has taken all reasonable steps to ensure that the plant had been repaired under a licence.

- To update the qualifications required by persons exercising statutory engineering functions at mines.
- To prescribe certain offences against the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* as offences for which a penalty notice may be issued and to prescribe the amounts of the penalties payable.

What are the key changes?

The following matrix is a summary of amendments to the regulation.

Topic	Key change
Clause 7A & Clause 8BA	Notification of contact details Mine operators and petroleum site operators to notify regulator of changes to contact details within 28 days.
Clause 7B	Safety training requirements for opal mine holders and operators A person appointed as a mine operator must undertake safety training every five years. A person already appointed before 13 April 2018 has until 13 April 2023 to undertake the refresher training.
Clause 11 & 12	Review of control measures A record of the review of control measures by the operator or a PCBU must include the outcome of the review. The records of the review must be provided to the regulator on request, in the manner and timeframe as required by the regulator.
Clause 71	Volume of air when using continuous miner in underground coal mine To prescribe that in an underground coal mine the volume of air passing through the area in which mining operations are taking place using a continuous miner must not be less than 0.3 cubic metres per second for each square metre of the average cross-sectional area of the roadway in which the continuous miner is operating.
Clause 78	Update of hazardous zone explosion protection in underground coal mines The requirements for explosion protection of electrical equipment used in the hazardous zone of an underground coal mine have been updated and the definition of department approved plant has been defined. Relevant parts of cl71 and cl73 have been amended to reflect the amendments in this clause.

Topic	Key change
Clause 109 - 110	<p>Health monitoring</p> <p>The requirements in Part 3, clause 109-119, have been replaced to relieve regulatory burden as they duplicate the requirements in the <i>WHS Act 2011</i>. The health monitoring requirements under the <i>WHS Act 2011</i> still apply.</p> <p>The clauses which remain enable the regulator to direct a PCBU to provide health monitoring to workers (cl109). PCBU's must provide a copy of health monitoring reports to the operator of the mine or petroleum site where the work is carried out on request (cl110). The regulator's direction is a reviewable decision under cl175(d).</p>
Clause 120 - 121	<p>Safety role for workers in relation to principal hazards</p> <p>The operator of a petroleum site is to provide a safety role for workers in relation to principal hazards and have a duty to consult as it is for the operator of a mine.</p>
Clause 128	<p>High potential incidents</p> <p>Four further issues have been defined as high potential incidents to be notified to the regulator:</p> <ul style="list-style-type: none">→ Energised electrical equipment in the hazardous zone of an underground coal mine that is <u>not</u> explosion protected.→ Electrical plant powered by an internal battery that is lost or misplaced in an underground coal mine.→ Exceedance of the cl39(1)(a) exposure standard for respirable dust at a mine or petroleum site (3 milligrams per cubic metre of air, or in the case of a coal mine, 2.5 milligrams per cubic metre of air).→ Exceedance of the workplace exposure standard for respirable crystalline silica at a mine or petroleum site (0.1 milligrams per cubic metre of air).
Clause 129	<p>Changes to people in key statutory functions</p> <p>The operator of a mine is to notify the regulator when there are material changes to identification details of the persons nominated to exercise key statutory functions at the mine and the competency of those persons to exercise those functions.</p>
Clause 152	<p>Licence for polymeric processes</p> <p>The definition of polymeric chemical product and polymeric process have been removed from cl3 and replaced in in this clause. The definition of polymeric process has been amended to remove the restriction to ventilation or strata control. (I.e. all polymeric processes now require a licence).</p>

Topic	Key change
	Note: the requirement to have a licence for any polymeric process commences on 1 October 2018.
Clause 153	Licence to overhaul or repair plant with explosion protection properties No PCBU is to use explosion protected plant in an underground coal mine or any flexible reeling, feeding or trailing cables in a hazardous zone unless the repair of the plant was carried out under and in accordance with a licence.
Clause 179	Dangerous incidents Three further issues have been defined as dangerous incidents to be notified to the regulator: <ul style="list-style-type: none">→ spontaneous combustion at a coal mine→ a gas outburst at an underground coal mine→ a coal burst or rock burst at an underground mine.
Schedule 1	Roadway widening in an underground coal mine An additional matter to be considered in a ground and strata control principal hazard management plan for an underground coal mine is proposed widening of an existing underground roadway to a width greater than five and a half metres. Widening proposals are to include endorsed engineering drawings, a geotechnical report and strata control as part of the principal hazard management plan.
Schedule 2	Health Control Plan Now refers to Part 3 of the Work Health and Safety Regulation 2017 for the health monitoring requirements.
Schedule 3	High Risk Activities Widening an underground roadway to more than five and a half metres is no longer defined as a high-risk activity. It is now a matter to be considered in the strata and ground control principle hazard management plan – see Schedule 1 amendment above. In an underground coal mine secondary extraction as a high risk activity has been simplified with a definition provided in cl3 that it includes pillar extraction, pillar splitting and pillar reduction. There is no change to the requirement to notify.

Topic	Key change
Schedule 10	<p>Statutory functions:</p> <ul style="list-style-type: none">→ Electrical engineer in an open cut coal mine is now required to hold a current practising certificate for an electrical engineer (surface coal) or electrical engineering manager (coal) to carry out the statutory function.→ Electrical engineer in an underground mine other than coal (if greater than 1000 KW or high voltage used) is now required to hold a current practising certificate for an electrical engineer (underground coal) or electrical engineer (surface coal) to carry out the statutory function.→ Electrical engineer in other mines (not underground or coal if greater than 1000 KW or high voltage used) is now required to hold a current practising certificate for an electrical engineer (underground coal) or electrical engineer (surface coal) to carry out the statutory function.→ Mechanical engineer in an open cut coal mine is now required to hold a current practising certificate mechanical engineer (surface coal) or mechanical engineering manager (underground coal) to carry out the statutory function. <p>Note: To carry out the above engineering functions, an alternative path is to have evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be registered on the National Engineering Register as a professional, technologist or an associate.</p> <ul style="list-style-type: none">→ For underground mines other than coal the underground supervisor statutory function has been amended to ‘supervising workers and inspect work areas in a part of the mine for a shift when production is taking place’ rather than ‘supervise mining operations’.
Schedule 13	<p>Penalty notices</p> <p>This schedule prescribes certain offences against the <i>Work Health and Safety (Mines and Petroleum Sites) Act 2013</i> and the <i>Work Health and Safety (Mines and Petroleum Sites) Regulation 2014</i> as offences for which a penalty notice may be issued and to prescribe the amounts of the penalties payable.</p>
Miscellaneous	<ul style="list-style-type: none">→ In clauses 11 and 12 work health and safety issues are now <i>work health and safety matters</i>.→ In clause 36 the operator of petroleum site applying the minimum age requirements if not met has been made an offence under the regulation as it is for the operator of a mine.→ In Schedule 3 cl16(2) and (3) “any such activity” is replaced by “the activity”.

Further Information

For further information contact the NSW Resources Regulator.

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PUB18/98