



Queensland

Mines Legislation (Resources Safety) Amendment Bill 2017



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Contents

		Page
Part 1	Preliminary	
1	Short title	8
Part 2	Amendment of Coal Mining Safety and Health Act 1999	
2	Act amended	8
3	Amendment of s 7 (How objects are to be achieved)	8
4	Amendment of s 33 (Obligations for safety and health)	8
5	Replacement of s 34 (Discharge of obligations)	9
	34 Discharge of obligations	9
6	Amendment of s 40 (Obligations of holders)	10
7	Amendment of s 42 (Obligations of site senior executive for coal mine)	11
8	Replacement of s 43 (Obligations of contractors)	13
	43 Obligations of contractors	13
9	Amendment of s 44 (Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at coal mines)	14
10	Amendment of s 46 (Obligations of manufacturers, importers and suppliers of substances for use at coal mines)	15
11	Replacement of s 47 (Obligation of provider of services at coal mines)	17
	47 Obligations of service providers	17
12	Insertion of new pt 3, div 3A	18
	Division 3A Obligations of officers of corporations	
	47A Obligation of officers of corporations	19
13	Amendment of s 48 (Defences for div 2 or 3)	20
14	Amendment of s 54 (Appointment of site senior executive)	20
15	Amendment of s 55 (Management structure for safe operations at coal mines)	20

Contents

16	Replacement of s 61 (Appointment of ventilation officer)	21
	61 Appointment of ventilation officer	21
	61A Absence of ventilation officer	22
17	Amendment of s 62 (Safety and health management system) . .	23
18	Amendment of s 62A (Additional requirement for coal mining operation for incidental coal seam gas)	24
19	Amendment of s 73C (Commissioner’s functions)	24
20	Amendment of s 78 (Membership of committee)	24
21	Amendment of s 80 (Appointment of members)	24
22	Insertion of new s 80A	25
	80A Appointment of members—inspectors	25
23	Amendment of s 133 (Entry to places)	25
24	Insertion of new s 138A	26
	138A Entry to residential premises	26
25	Amendment of s 181 (Obstructing inspectors, officers or industry safety and health representatives)	26
26	Amendment of s 185 (Functions of board of examiners)	27
27	Amendment of s 186 (Membership and conduct of board proceedings)	27
28	Amendment of s 188 (Appointment of board of examiners)	28
29	Insertion of new s 193A	28
	193A Register to be kept by board of examiners	28
30	Insertion of new s 194A	29
	194A Board of examiners may consider previous suspension or cancellation of certificate of competency or site senior executive notice	29
31	Amendment of s 195 (Obtaining certificates of competency by fraud) 30	
32	Amendment of s 196 (Return of certificate of competency)	31
33	Insertion of new s 196A	31
	196A Effect on particular appointments of suspension or cancellation of certificate of competency or site senior executive notice	31
34	Insertion of new pt 10A	32
	Part 10A Suspension and cancellation of certificates of competency and site senior executive notices by chief executive	
	197A Grounds for suspension or cancellation	32
	197B Notice of proposed action	33

	197C	Submission against taking of proposed action	33
	197D	Decision to take proposed action	34
35		Amendment of s 198 (Notice of accidents, incidents, deaths or diseases)	35
36		Amendment of pt 14, div 1, hdg (Appeals against particular decisions of Minister or board of examiners)	36
37		Insertion of new s 236A	36
	236A	Appeals against chief executive's decisions	36
38		Amendment of s 238 (How to start appeal)	36
39		Amendment of s 240 (Hearing procedures)	37
40		Amendment of s 252 (Evidentiary aids)	37
41		Amendment of s 258 (Court may order suspension or cancellation of certificate)	37
42		Amendment of s 261 (Responsibility for acts or omissions of representatives)	38
43		Omission of s 262 (Executive officers must ensure corporation complies with Act)	38
44		Insertion of new pt 15B	39
	Part 15B	Civil penalties	
	267E	Definitions for part	39
	267F	Liability for civil penalties	39
	267G	Giving of notice proposing imposition of civil penalty	40
	267H	Submission against proposed imposition of civil penalty	41
	267I	Giving of penalty notice	41
	267J	Civil penalty can not be imposed after criminal proceeding	42
	267K	Criminal proceeding after civil penalty imposed	43
45		Amendment of s 275AC (Public statements)	43
46		Amendment of s 275A (Disclosure of information)	44
47		Insertion of new pt 20, div 7	44
	Division 7	Transitional provisions for Mines Legislation (Resources Safety) Amendment Act 2017	
	307	Definitions for division	45
	308	Appointment of ventilation officers for underground mines during transitional period	45
	309	Ventilation officers holding office when transitional period ends	45
	310	Existing site senior executive notices	46

Contents

48	Amendment of sch 2 (Subject matter for regulations)	46
49	Amendment of sch 3 (Dictionary)	47
Part 3	Amendment of Mining and Quarrying Safety and Health Act 1999	
50	Act amended	49
51	Amendment of s 7 (How objects are to be achieved)	49
52	Amendment of s 30 (Obligations for safety and health)	49
53	Replacement of s 31 (Discharge of obligations)	49
	31 Discharge of obligations	49
54	Amendment of s 37 (Obligations of holders)	51
55	Amendment of s 38 (Obligations of operators)	51
56	Amendment of s 39 (Obligations of site senior executive for mine)	52
57	Replacement of s 40 (Obligations of contractors)	53
	40 Obligations of contractors	54
58	Amendment of s 41 (Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at mines)	55
59	Amendment of s 43 (Obligations of manufacturers, importers and suppliers of substances for use at mines)	56
60	Replacement of s 44 (Obligation of provider of services at mines)	57
	44 Obligations of service providers	57
61	Insertion of new pt 3, div 3A	59
	Division 3A Obligations of officers of corporations	
	44A Obligation of officers of corporations	59
62	Amendment of s 45 (Defences for div 2 or 3)	61
63	Amendment of s 49 (Appointment of site senior executive)	61
64	Amendment of s 50 (Management structure for safe operations at mines)	61
65	Insertion of new ss 54A and 54B	62
	54A Appointment of ventilation officer	62
	54B Absence of ventilation officer	63
66	Amendment of s 55 (Safety and health management system) . .	64
67	Amendment of s 69 (Membership of committee)	65
68	Amendment of s 71 (Appointment of members)	65
69	Insertion of new s 71A	66
	71A Appointment of members—inspectors	66
70	Amendment of s 130 (Entry to places)	66
71	Insertion of new s 135A	66

	135A	Entry to residential premises	67
72		Amendment of s 180 (Functions of the board of examiners) . . .	67
73		Insertion of new s 181A	68
	181A	Board of examiners may consider previous suspension or cancellation of certificate of competency or site senior executive notice	68
74		Amendment of s 182 (Obtaining certificates of competency by fraud)	68
75		Amendment of s 183 (Return of certificate of competency)	69
76		Insertion of new ss 184 and 185	69
	184	Effect on particular appointments of suspension or cancellation of certificate of competency or site senior executive notice	69
	185	Register to be kept by board of examiners	70
77		Insertion of new pt 10A	71
	Part 10A	Suspension and cancellation of certificates of competency and site senior executive notices by chief executive	
	186	Grounds for suspension or cancellation	71
	187	Notice of proposed action	72
	188	Submission against taking of proposed action	73
	189	Decision to take proposed action	73
78		Amendment of s 195 (Notice of accidents, incidents, deaths or diseases)	74
79		Amendment of pt 13, div 1, hdg (Appeals against particular decisions of Minister or board of examiners)	75
80		Insertion of new s 216A	75
	216A	Appeals against chief executive's decisions	75
81		Amendment of s 218 (How to start appeal)	76
82		Amendment of s 220 (Hearing procedures)	76
83		Amendment of s 231 (Evidentiary aids)	76
84		Amendment of s 237 (Court may order suspension or cancellation of certificate)	77
85		Amendment of s 240 (Responsibility for acts or omissions of representatives)	77
86		Omission of s 241 (Executive officers must ensure corporation complies with Act)	78
87		Insertion of new pt 14B	78
	Part 14B	Civil penalties	
	246E	Definitions for part	78

Contents

	246F	Liability for civil penalties	79
	246G	Giving of notice proposing imposition of civil penalty	79
	246H	Submission against proposed imposition of civil penalty	80
	246I	Giving of penalty notice	80
	246J	Civil penalty can not be imposed after criminal proceeding	81
	246K	Criminal proceeding after civil penalty imposed	82
88		Amendment of s 254C (Public statements)	82
89		Amendment of s 255 (Disclosure of information)	83
90		Amendment of s 262 (Regulation-making power)	84
91		Insertion of new pt 20, div 5	85
	Division 5	Transitional provisions for Mines Legislation (Resources Safety) Amendment Act 2017	
	282	Definition for division	85
	283	Appointment of site senior executives during 1-year transitional period	85
	284	Appointment of ventilation officers for underground mines during 3-year transitional period	85
	285	Continuation of exemptions for particular opal or gem mines for 2-year transitional period	86
92		Amendment of sch 2 (Dictionary)	87
	Part 4	Amendments of other legislation	
	Division 1	Amendment of Coal Mining Safety and Health Regulation 2017	
93		Regulation amended	88
94		Insertion of new s 371A	88
	371A	Civil penalties—Act, ss 267E and 267F	88
95		Insertion of new sch 7A	89
	Schedule 7A	Civil penalties	89
96		Amendment of sch 8 (Fees)	91
	Division 2	Amendment of Mining and Quarrying Safety and Health Regulation 2017	
97		Regulation amended	91
98		Insertion of new s 150A	91
	150A	Civil penalties—Act, ss 246E and 246F	92
99		Insertion of new sch 5A	92
	Schedule 5A	Civil penalties	92

2017

A Bill

for

An Act to amend the Coal Mining Safety and Health Act 1999, the Coal Mining Safety and Health Regulation 2017, the Mining and Quarrying Safety and Health Act 1999 and the Mining and Quarrying Safety and Health Regulation 2017 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Mines Legislation (Resources Safety) Amendment Act 2017*. 4
5

Part 2 Amendment of Coal Mining Safety and Health Act 1999 6
7

Clause 2 Act amended 8

This part amends the *Coal Mining Safety and Health Act 1999*. 9
10

Clause 3 Amendment of s 7 (How objects are to be achieved) 11

Section 7(k), ‘of coal mine workers’— 12
omit, insert— 13

and health surveillance of persons who are, will 14
be or have been coal mine workers 15

Clause 4 Amendment of s 33 (Obligations for safety and health) 16

Section 33— 17
insert— 18

(3) If a corporation has an obligation under this Act, 19
an officer of the corporation has obligations under 20
division 3A (also *safety and health obligations*). 21

Clause 5	Replacement of s 34 (Discharge of obligations)	1
	Section 34—	2
	<i>omit, insert—</i>	3
	34 Discharge of obligations	4
	A person on whom a safety and health obligation is imposed must discharge the obligation.	5 6
	Maximum penalty—	7
	(a) if the contravention caused multiple deaths—	8 9
	(i) for an offence committed by a corporation—30,000 penalty units; or	10 11
	(ii) for an offence committed by an officer of a corporation—6,000 penalty units or 3 years imprisonment; or	12 13 14
	(iii) otherwise—3,000 penalty units or 3 years imprisonment; or	15 16
	(b) if the contravention caused death or grievous bodily harm—	17 18
	(i) for an offence committed by a corporation—15,000 penalty units; or	19 20
	(ii) for an offence committed by an officer of a corporation—3,000 penalty units or 2 years imprisonment; or	21 22 23
	(iii) otherwise—1,500 penalty units or 2 years imprisonment; or	24 25
	(c) if the contravention caused bodily harm—	26
	(i) for an offence committed by a corporation—7,500 penalty units; or	27 28
	(ii) for an offence committed by an officer of a corporation—1,500 penalty units or 1 year’s imprisonment; or	29 30 31

[s 6]

	(iii) otherwise—750 penalty units or 1 year’s imprisonment; or	1 2
	(d) if the contravention involved exposure to a substance that is likely to cause death or grievous bodily harm—	3 4 5
	(i) for an offence committed by a corporation—5,000 penalty units; or	6 7
	(ii) for an offence committed by an officer of a corporation—1,000 penalty units or 1 year’s imprisonment; or	8 9 10
	(iii) otherwise—500 penalty units or 1 year’s imprisonment; or	11 12
	(e) otherwise—	13
	(i) for an offence committed by a corporation—5,000 penalty units; or	14 15
	(ii) for an offence committed by an officer of a corporation—1,000 penalty units or 6 months imprisonment; or	16 17 18
	(iii) otherwise—500 penalty units or 6 months imprisonment.	19 20
Clause 6	Amendment of s 40 (Obligations of holders)	21
	(1) Section 40(1), from ‘and the coal mine’—	22
	<i>omit, insert—</i>	23
	for a coal mine proposes to appoint under section 53 another person as coal mine operator for the mine.	24 25 26
	(2) Section 40(2)(a)—	27
	<i>omit, insert—</i>	28
	(a) inform the proposed coal mine operator, by notice, of all relevant information available to the holder that may help the proposed coal mine operator—	29 30 31 32

-
- (i) ensure the site senior executive for the coal mine develops and implements a safety and health management system for the mine; and
 - (ii) prepare and implement principal hazard management plans for the mine; and
- (3) Section 40(2), penalty—
omit.

Clause 7 Amendment of s 42 (Obligations of site senior executive for coal mine)

- (1) Section 42(b), from ‘by someone’ to ‘workers’—
omit.
- (2) Section 42(c)—
omit, insert—
- (c) to develop and implement a safety and health management system for all persons at the mine, including contractors and service providers;
 - (ca) to give a contractor at the mine information in the site senior executive’s possession about all relevant components of the mine’s safety and health management system, required by the contractor to—
 - (i) identify risks arising in relation to any work to be undertaken by the contractor at the mine; and
 - (ii) comply with section 43(1)(d);
 - (cb) to give a service provider at the mine information in the site senior executive’s possession about all relevant components of the mine’s safety and health management

[s 7]

system, required by the service provider	1
to—	2
(i) identify risks arising in relation to any	3
service to be provided by the service	4
provider at the mine; and	5
(ii) comply with section 47(1)(f);	6
(cc) to review safety and health management	7
plans of contractors and service providers	8
within the meaning of section 43 or 47 and,	9
if necessary, require changes to be made to	10
those plans to enable them to be integrated	11
with the mine's safety and health	12
management system;	13
(3) Section 42(e)—	14
<i>omit, insert—</i>	15
(e) to ensure no work is undertaken by a coal	16
mine worker at the mine until the worker—	17
(i) has been inducted in the mine's safety	18
and health management system to the	19
extent it relates to the work to be	20
undertaken by the worker; and	21
(ii) has received training about hazards and	22
risks at the mine to the extent they	23
relate to the work to be undertaken by	24
the worker; and	25
(iii) has received training so the worker is	26
competent to perform the worker's	27
duties;	28
(4) Section 42(f)—	29
<i>insert—</i>	30
(vi) adequate supervision and monitoring of	31
contractors and service providers at the	32
mine.	33
(5) Section 42(ca) to (f)—	34

renumber as section 42(d) to (i). 1

Clause 8	Replacement of s 43 (Obligations of contractors)	2
	Section 43—	3
	<i>omit, insert</i> —	4
	43 Obligations of contractors	5
	(1) A contractor at a coal mine has the following obligations—	6 7
	(a) to ensure the contractor complies with this Act to the extent it relates to the work undertaken by the contractor;	8 9 10
	(b) to ensure the contractor complies with the mine’s safety and health management system to the extent it relates to the work undertaken by the contractor;	11 12 13 14
	(c) to ensure the contractor’s own safety and health, and the safety and health of others, is not adversely affected by the way the contractor undertakes work at the mine;	15 16 17 18
	(d) to ensure no work is undertaken by the contractor until the contractor—	19 20
	(i) has given the site senior executive for the mine a safety and health management plan; and	21 22 23
	(ii) has made all changes to the contractor’s safety and health management plan required by the site senior executive to enable the plan to be integrated with the mine’s safety and health management system;	24 25 26 27 28 29
	(e) to ensure no work is undertaken by the contractor at the mine until the contractor and each coal mine worker engaged by the contractor—	30 31 32 33

[s 9]

	(i)	has been inducted in the mine’s safety and health management system to the extent it relates to the work to be undertaken by the contractor or worker; and	1 2 3 4 5
	(ii)	has received training about hazards and risks at the mine to the extent they relate to the work to be undertaken by the contractor or worker.	6 7 8 9
	(2)	In this section—	10
		<i>safety and health management plan</i> , of a contractor, means a plan that—	11 12
	(a)	identifies the work to be undertaken by the contractor; and	13 14
	(b)	states how the contractor intends to comply with the contractor’s obligations under this section.	15 16 17
Clause 9		Amendment of s 44 (Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at coal mines)	18 19 20
	(1)	Section 44(4), after paragraph (a)—	21
		<i>insert—</i>	22
	(aa)	if the designer, manufacturer, importer or supplier becomes aware of a hazard or defect associated with the plant that may create an unacceptable level of risk to users of the plant, to inform the chief inspector of—	23 24 25 26 27 28
	(i)	the nature of the hazard or defect and its significance; and	29 30
	(ii)	any modifications or controls of which the designer, manufacturer, importer or supplier is aware that have been developed to eliminate or correct the	31 32 33 34

hazard or defect or manage the risk;	1
and	2
(iii) the name of each coal mine operator,	3
contractor or service provider the	4
designer, manufacturer, importer or	5
supplier has supplied the plant to; and	6
(iv) the steps taken to notify the coal mine	7
operators, contractors and service	8
providers about the matters mentioned	9
in subparagraphs (i) and (ii);	10
(2) Section 44(4)(b), example, ‘(4)(b)’—	11
<i>omit, insert—</i>	12
(4)(c)	13
(3) Section 44(4)(aa) and (b)—	14
<i>renumber</i> as section 44(4)(b) and (c).	15
(4) Section 44(6), after ‘a contractor’—	16
<i>insert—</i>	17
or service provider	18
(5) Section 44(6), ‘or contractor’—	19
<i>omit, insert—</i>	20
, contractor or service provider	21

Clause 10	Amendment of s 46 (Obligations of manufacturers, importers and suppliers of substances for use at coal mines)	22
		23
		24
(1)	Section 46(2), after paragraph (a)—	25
	<i>insert—</i>	26
	(aa) if the manufacturer, importer or supplier	27
	becomes aware of a hazard or defect	28
	associated with the substance that may	29
	create an unacceptable level of risk to users	30

[s 10]

of the substance, to inform the chief inspector of—	1 2
(i) the nature of the hazard or defect and its significance; and	3 4
(ii) any modifications or controls of which the manufacturer, importer or supplier is aware that have been developed to eliminate or correct the hazard or defect or manage the risk; and	5 6 7 8 9
(iii) the name of each coal mine operator, contractor or service provider the manufacturer, importer or supplier has supplied the substance to; and	10 11 12 13
(iv) the steps taken to notify the coal mine operators, contractors and service providers about the matters mentioned in subparagraphs (i) and (ii);	14 15 16 17
(2) Section 46(2)(b), example, ‘(2)(b)’— <i>omit, insert—</i>	18 19
(2)(c)	20
(3) Section 46(2)(aa) and (b)— <i>renumber</i> as section 46(2)(b) and (c).	21 22
(4) Section 46— <i>insert—</i>	23 24
(4) If a supplier of a substance for use at a coal mine becomes aware of a hazard or defect associated with the substance that may create an unacceptable level of risk to users of the substance, the supplier has an obligation to take all reasonable steps to inform each coal mine operator, contractor or service provider to whom the supplier has supplied the substance of—	25 26 27 28 29 30 31 32
(a) the nature of the hazard or defect and its significance; and	33 34

	(b) any modifications or controls the supplier is aware of that have been developed to eliminate or correct the hazard or defect or manage the risk.	1 2 3 4
Clause 11	Replacement of s 47 (Obligation of provider of services at coal mines)	5 6
	Section 47—	7
	<i>omit, insert—</i>	8
	47 Obligations of service providers	9
	(1) A person who provides a service (a <i>service provider</i>) at a coal mine has the following obligations—	10 11 12
	(a) to ensure the service provider complies with this Act to the extent it relates to the service provided;	13 14 15
	(b) to ensure the service provider complies with the mine’s safety and health management system to the extent it relates to the service provided;	16 17 18 19
	(c) to ensure the safety and health of coal mine workers or other persons is not adversely affected by the service provided;	20 21 22
	(d) if the service provider is present at the coal mine—to ensure the service provider’s own safety and health is not adversely affected by the service provided;	23 24 25 26
	(e) to ensure the fitness for use of plant at the coal mine is not adversely affected by the service provided;	27 28 29
	(f) to ensure the service is not provided until the service provider—	30 31

[s 12]

(i)	has given the site senior executive for the mine a safety and health management plan; and	1 2 3
(ii)	has made all changes to the service provider's safety and health management plan required by the site senior executive to enable the plan to be integrated with the mine's safety and health management system;	4 5 6 7 8 9
(g)	to ensure the service is not provided until the service provider and each coal mine worker engaged by the service provider—	10 11 12
(i)	has been inducted in the mine's safety and health management system to the extent it relates to the service to be provided by the service provider or worker; and	13 14 15 16 17
(ii)	has received training about hazards and risks at the mine to the extent they relate to the service to be provided by the service provider or worker.	18 19 20 21
(2)	In this section—	22
	<i>safety and health management plan</i> , of a service provider, means a plan that—	23 24
(a)	identifies the service to be provided by the service provider; and	25 26
(b)	states how the service provider intends to comply with the service provider's obligations under this section.	27 28 29
Clause 12	Insertion of new pt 3, div 3A	30
	Part 3—	31
	<i>insert</i> —	32

Division 3A	Obligations of officers of corporations	1 2
47A	Obligation of officers of corporations	3
(1)	If a corporation has an obligation under this Act, an officer of the corporation must exercise due diligence to ensure the corporation complies with the obligation.	4 5 6 7
(2)	An officer of a corporation may be convicted or found guilty of an offence under this Act relating to an obligation of the officer whether or not the corporation has been convicted or found guilty of an offence under this Act relating to an obligation of the corporation.	8 9 10 11 12 13
(3)	In this section, <i>due diligence</i> includes taking reasonable steps—	14 15
(a)	to acquire and keep up-to-date knowledge of mine safety and health matters; and	16 17
(b)	to gain an understanding of the nature of coal mining operations at a coal mine and generally of the hazards and risks associated with those operations; and	18 19 20 21
(c)	to ensure the corporation has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to safety and health from work carried out as part of coal mining operations; and	22 23 24 25 26
(d)	to ensure the corporation has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information; and	27 28 29 30 31
(e)	to ensure the corporation has, and implements, processes for complying with	32 33

[s 13]

	any obligation of the corporation under this Act; and	1 2
	(f) to verify the provision and use of the resources and processes mentioned in paragraphs (c) to (e).	3 4 5
	(4) In this section— <i>officer</i> , of a corporation, does not include a person appointed as, or whose position reports directly or indirectly to, the site senior executive for a coal mine.	6 7 8 9 10
Clause 13	Amendment of s 48 (Defences for div 2 or 3)	11
	Section 48, ‘2 or 3’— <i>omit, insert—</i> 2, 3 or 3A	12 13 14
Clause 14	Amendment of s 54 (Appointment of site senior executive)	15 16
	(1) Section 54— <i>insert—</i> (3A) A coal mine operator must not appoint a person to be site senior executive for a coal mine or a separate part of a surface mine unless the person holds a site senior executive notice. Maximum penalty—500 penalty units.	17 18 19 20 21 22 23
	(2) Section 54(3A) and (4)— <i>renumber</i> as section 54(4) and (5).	24 25
Clause 15	Amendment of s 55 (Management structure for safe operations at coal mines)	26 27
	Section 55(2)—	28

insert—

- (ca) the name of the person who is responsible for managing the system of work for contractors and service providers at the coal mine; and

Clause 16 Replacement of s 61 (Appointment of ventilation officer)

Section 61—

omit, insert—

61 Appointment of ventilation officer

- (1) This section applies to an underground mine.
- (2) The underground mine manager for the mine must appoint a person as the ventilation officer for the mine.
- Maximum penalty—200 penalty units.
- (3) However, the underground mine manager may be appointed as the ventilation officer for the mine by the site senior executive.
- (4) The underground mine manager or site senior executive must not appoint a person as the ventilation officer for the mine unless the person holds a ventilation officer's certificate of competency.
- Maximum penalty—200 penalty units.
- (5) Subject to the direction and control of the underground mine manager, the ventilation officer for the mine is responsible for—
- (a) the implementation of the mine's ventilation system; and
- (b) the establishment of effective standards of ventilation for the mine.
- (6) The underground mine manager or site senior executive must not appoint a person as ventilation officer at more than 1 mine at the same time

[s 16]

unless the chief inspector gives the manager 1
notice that the chief inspector is satisfied the 2
person can effectively carry out the duties of the 3
ventilation officer at the mines. 4
Maximum penalty for subsection (6)—200 5
penalty units. 6

61A Absence of ventilation officer 7

- (1) This section applies if the ventilation officer 8
appointed under section 61 for an underground 9
mine is— 10
- (a) temporarily absent from duty; and 11
 - (b) is a person other than the underground mine 12
manager for the mine. 13
- (2) If the absence is for not more than 7 days, the 14
duties and responsibilities of the ventilation 15
officer are taken to be assumed by the 16
underground mine manager during the absence. 17
- (3) Subsection (2) applies regardless of whether the 18
underground mine manager holds a ventilation 19
officer’s certificate of competency. 20
- (4) An inspector may, by notice, require an 21
underground mine manager assuming the duties 22
and responsibilities of the ventilation officer to— 23
- (a) demonstrate to the inspector’s satisfaction 24
that the manager can effectively carry out 25
the duties and responsibilities of both the 26
underground mine manager and the 27
ventilation officer; and 28
 - (b) if the underground mine manager can not 29
satisfy the inspector as mentioned in 30
paragraph (a)—appoint a person to act as 31
the ventilation officer during the remainder 32
of the absence. 33

-
- (5) If the absence is for more than 7 days or the underground mine manager is given a notice under subsection (4)(b), the underground mine manager for the mine must appoint a person to act as the ventilation officer during the absence. 1
2
3
4
5
Maximum penalty—200 penalty units. 6
- (6) The underground mine manager must not appoint a person under subsection (5) unless the person holds a ventilation officer's certificate of competency. 7
8
9
10
Maximum penalty—200 penalty units. 11

Clause 17 Amendment of s 62 (Safety and health management system) 12
13

- (1) Section 62(1) and (2)— 14
omit, insert— 15
- (1) The safety and health management system, for a coal mine, is a single system that incorporates risk management elements and practices that ensure the safety and health of persons who may be affected by coal mining operations. 16
17
18
19
20
- (2) The safety and health management system must be a single, auditable documented system that forms part of an overall management system that includes organisational structure, planning activities, responsibilities, practices, procedures and resources for developing, implementing, maintaining and reviewing a safety and health policy. 21
22
23
24
25
26
27
28
- (2A) The safety and health management system must provide a single, comprehensive and integrated system for the management of all aspects of risks to safety and health in relation to the operation of the coal mine. 29
30
31
32
33
- (2B) The safety and health management system for a 34

[s 18]

	coal mine must be in place before coal mining operations start at the mine.	1 2
(2)	Section 62(2A) to (5)— <i>renumber</i> as section 62(3) to (7).	3 4
Clause 18	Amendment of s 62A (Additional requirement for coal mining operation for incidental coal seam gas)	5 6
(1)	Section 62A(2), ‘single’— <i>omit.</i>	7 8
(2)	Section 62A(3), ‘62(3)’— <i>omit, insert—</i> 62(5)	9 10 11
Clause 19	Amendment of s 73C (Commissioner’s functions)	12
	Section 73C(a), ‘health and safety’— <i>omit, insert—</i> safety and health	13 14 15
Clause 20	Amendment of s 78 (Membership of committee)	16
	Section 78(1), ‘9’— <i>omit, insert—</i> 10	17 18 19
Clause 21	Amendment of s 80 (Appointment of members)	20
(1)	Section 80, heading, after ‘members’— <i>insert—</i> —persons from panels	21 22 23
(2)	Section 80(3)— <i>omit.</i>	24 25

-
- (3) Section 80(4), after ‘operations’— 1
insert— 2
or the Minister otherwise considers the person 3
appropriate to be a member of the committee 4
- (4) Section 80(7), ‘who are not inspectors’— 5
omit, insert— 6
mentioned in this section 7

- Clause 22 Insertion of new s 80A** 8
After section 80— 9
insert— 10
80A Appointment of members—inspectors 11
(1) The chief inspector is a member of the committee. 12
(2) The Minister must appoint 2 other inspectors to be 13
members of the committee. 14

- Clause 23 Amendment of s 133 (Entry to places)** 15
- (1) Section 133(1)(e)— 16
omit, insert— 17
(e) it is, or the officer reasonably suspects it is, a 18
workplace. 19
- (2) Section 133(2), after ‘For’— 20
insert— 21
subsection (1)(a), for 22
- (3) Section 133(3)— 23
omit, insert— 24
(3) For subsection (1)(e), an entry may be made with, 25
or without, the consent of the person with 26
management or control of the workplace. 27

[s 24]

- (4) Section 133(5)— 1
omit. 2

Clause 24 Insertion of new s 138A 3

Part 9, division 4, subdivision 3— 4

insert— 5

138A Entry to residential premises 6

Despite anything else in this division, the powers 7
of an officer under this division in relation to 8
entering a place are not exercisable in relation to 9
any part of a place that is used for residential 10
purposes except— 11

(a) with the consent of the person with the 12
management or control of the place; or 13

(b) under the authority conferred by a search 14
warrant; or 15

(c) for the purpose only of gaining access to a 16
suspected workplace, but only— 17

(i) if the officer reasonably believes no 18
reasonable alternative access is 19
available; and 20

(ii) at a reasonable time having regard to 21
the times at which the officer believes 22
work is being carried out at the place to 23
which access is sought. 24

**Clause 25 Amendment of s 181 (Obstructing inspectors, officers or 25
industry safety and health representatives)** 26

Section 181(1), ‘health and safety’— 27

omit, insert— 28

safety and health 29

Clause 26	Amendment of s 185 (Functions of board of examiners)	1
(1)	Section 185—	2
	<i>insert</i> —	3
	(da) to issue notices (<i>site senior executive notices</i>) to persons who have demonstrated to the board’s satisfaction the safety and health competencies, recognised by the committee under section 76, required to perform the duties of a site senior executive for a coal mine;	4 5 6 7 8 9 10
(2)	Section 185(da) and (e)—	11
	<i>renumber</i> as section 185(e) and (f).	12
Clause 27	Amendment of s 186 (Membership and conduct of board proceedings)	13 14
(1)	Section 186—	15
	<i>insert</i> —	16
	(3A) The following persons are members of the board of examiners—	17 18
	(a) the chief inspector;	19
	(b) the chief inspector of mines under the <i>Mining and Quarrying Safety and Health Act 1999</i> .	20 21 22
(2)	Section 186(4)—	23
	<i>omit, insert</i> —	24
	(4) In addition to the members mentioned in subsection (3A), 1 member may be an inspector who holds—	25 26 27
	(a) a first class certificate of competency for an underground coal mine; or	28 29

[s 28]

	(b) a first class certificate of competency for an underground mine under the <i>Mining and Quarrying Safety and Health Act 1999</i> .	1 2 3
(3) Section 186(7), after ‘member’—		4
<i>insert—</i>		5
	, other than a member mentioned in subsection (3A),	6 7
Clause 28	Amendment of s 188 (Appointment of board of examiners)	8 9
	Section 188(1), after ‘examiners’—	10
	<i>insert—</i>	11
	, other than the members mentioned in section 186(3A),	12 13
Clause 29	Insertion of new s 193A	14
	Part 10, division 3—	15
	<i>insert—</i>	16
	193A Register to be kept by board of examiners	17
	(1) The board of examiners must keep a register of—	18
	(a) certificates of competency granted by the board; and	19 20
	(b) site senior executive notices issued by the board; and	21 22
	(c) notices of registration given by the board under a mutual recognition Act.	23 24
	(2) The register must include the following information—	25 26
	(a) for a certificate of competency or site senior executive notice—	27 28

	(i) the name and contact details of the holder of the certificate or notice; and	1 2
	(ii) details of the certificate or notice; and	3
	(iii) the status of the certificate or notice, including, if it has been suspended or cancelled under this Act, details of the suspension or cancellation;	4 5 6 7
	(b) for a notice mentioned in subsection (1)(c)—the name and contact details of the person to whom the notice was given;	8 9 10
	(c) any other information prescribed by regulation.	11 12
(3)	The board of examiners may disclose information in the register, other than the contact details of an individual, to any person or agency.	13 14 15
(4)	In this section—	16
	<i>mutual recognition Act</i> means—	17
	(a) the <i>Mutual Recognition Act 1992</i> (Cwlth); or	18 19
	(b) the <i>Trans-Tasman Mutual Recognition Act 1997</i> (Cwlth).	20 21
Clause 30	Insertion of new s 194A	22
	After section 194—	23
	<i>insert—</i>	24
	194A Board of examiners may consider previous suspension or cancellation of certificate of competency or site senior executive notice	25 26 27
	(1) This section applies if—	28
	(a) a person has applied for the grant of a certificate of competency or site senior executive notice; and	29 30 31

[s 31]

	(b) a certificate of competency or site senior executive notice previously held by the person was suspended or cancelled under this Act.	1 2 3 4
	(2) The board of examiners may have regard to the previous suspension or cancellation in deciding the application.	5 6 7
	(3) Subsection (2) does not limit the matters to which the board of examiners may have regard in deciding the application.	8 9 10
Clause 31	Amendment of s 195 (Obtaining certificates of competency by fraud)	11 12
	(1) Section 195, heading, after ‘competency’— <i>insert—</i> or site senior executive notices	13 14 15
	(2) Section 195, after ‘certificate of competency’— <i>insert—</i> or site senior executive notice	16 17 18
	(3) Section 195— <i>insert—</i> (3) If the board of examiners decides to cancel a certificate of competency or site senior executive notice, the board must give notice of the decision to the following persons, to the extent the persons are known to the board—	19 20 21 22 23 24 25
	(a) for a decision relating to a certificate of competency—the site senior executive for each coal mine at which the holder works;	26 27 28
	(b) for a decision relating to a site senior executive notice—the coal mine operator for each coal mine at which the holder works.	29 30 31 32

Clause 32	Amendment of s 196 (Return of certificate of competency)	1
		2
(1)	Section 196, after ‘certificate of competency’—	3
	<i>insert—</i>	4
	or site senior executive notice	5
(2)	Section 196, after ‘the certificate’—	6
	<i>insert—</i>	7
	or notice	8
(3)	Section 196—	9
	<i>insert—</i>	10
	(c) the chief executive suspends or cancels the certificate or notice under part 10A.	11
		12
Clause 33	Insertion of new s 196A	13
	After section 196—	14
	<i>insert—</i>	15
	196A Effect on particular appointments of suspension or cancellation of certificate of competency or site senior executive notice	16
		17
		18
(1)	This section applies if—	19
	(a) a certificate of competency or site senior executive notice held by a person is suspended or cancelled under this Act; and	20
		21
		22
	(b) immediately before the suspension or cancellation took effect, the person held an appointment under this Act; and	23
		24
		25
	(c) this Act requires a person to hold the certificate of competency or site senior executive notice to be appointed to the position.	26
		27
		28
		29
(2)	The person’s appointment to the position ends on the suspension or cancellation of the person’s	30
		31

[s 34]

	certificate of competency or site senior executive notice.	1 2
Clause 34	Insertion of new pt 10A	3
	After part 10—	4
	<i>insert—</i>	5
	Part 10A	6
	Suspension and cancellation of certificates of competency and site senior executive notices by chief executive	7 8 9 10 11 12
	197A Grounds for suspension or cancellation	13
	(1) Each of the following is a ground for suspending or cancelling a person's certificate of competency under this part—	14 15 16
	(a) the person has contravened a safety and health obligation;	17 18
	(b) the person has committed an offence against a law of Queensland or another State (a <i>corresponding law</i>) relating to mining safety;	19 20 21 22
	(c) a certificate, equivalent to a certificate of competency, that was issued to the person under a corresponding law of another State has been suspended or cancelled.	23 24 25 26
	(2) Each of the following is a ground for suspending or cancelling a person's site senior executive notice under this part—	27 28 29

-
- (a) the person has contravened a safety and health obligation; 1
2
 - (b) the person has committed an offence against a corresponding law. 3
4

197B Notice of proposed action 5

- (1) This section applies if the chief executive considers there is a ground to suspend or cancel a person's certificate of competency or site senior executive notice (the *proposed action*). 6
7
8
9
- (2) Before taking the proposed action, the chief executive must give the person a notice (a *proposed action notice*) stating each of the following matters— 10
11
12
13
 - (a) the proposed action; 14
 - (b) the ground for the proposed action; 15
 - (c) an outline of the facts and circumstances forming the basis for the ground; 16
17
 - (d) if the proposed action is to suspend the certificate of competency or site senior executive notice—the proposed period of the suspension; 18
19
20
21
 - (e) that the person may make a written submission to the chief executive, within a stated period of at least 28 days, to show why the proposed action should not be taken. 22
23
24
25
26

197C Submission against taking of proposed action 27
28

The person may, within the period stated in the proposed action notice under section 197B(2)(e), make a written submission to the chief executive to show why the proposed action should not be 29
30
31
32

[s 34]

taken. 1

197DDecision to take proposed action 2

- (1) This section applies if— 3
- (a) the period stated in the proposed action 4
notice under section 197B(2)(e) has ended; 5
and 6
 - (b) the chief executive has considered any 7
written submission made by the person 8
under section 197C; and 9
 - (c) the chief executive still considers a ground 10
exists to take the proposed action. 11
- (2) The chief executive may decide— 12
- (a) if the proposed action was to suspend the 13
certificate of competency or site senior 14
executive notice—to suspend the certificate 15
or notice for no longer than the proposed 16
period of the suspension stated in the 17
proposed action notice; or 18
 - (b) if the proposed action was to cancel the 19
certificate of competency or site senior 20
executive notice—to cancel the certificate 21
or notice or suspend it for a period. 22
- (3) The chief executive must give the person notice of 23
the decision. 24
- (4) The notice must state each of the following 25
matters— 26
- (a) the chief executive’s decision; 27
 - (b) the reasons for the decision; 28
 - (c) that the person may appeal against the 29
decision within 28 days; 30
 - (d) how the person may appeal; 31

	(e) that the person may apply for a stay of the decision if the person appeals against it.	1 2
(5)	The decision takes effect on the day the notice is given to the person.	3 4
(6)	The chief executive must give notice of the decision to—	5 6
	(a) the following persons, to the extent the persons are known to the chief executive—	7 8
	(i) for a decision relating to a certificate of competency—the site senior executive for each coal mine at which the person works;	9 10 11 12
	(ii) for a decision relating to a site senior executive notice—the coal mine operator for each coal mine at which the person works; and	13 14 15 16
	(b) the board of examiners.	17
Clause 35	Amendment of s 198 (Notice of accidents, incidents, deaths or diseases)	18 19
(1)	Section 198(6), from ‘disease prescribed’ to ‘this section’— <i>omit, insert—</i>	20 21
	reportable disease	22
(2)	Section 198— <i>insert—</i>	23 24
(7)	A person prescribed by regulation who becomes aware that a coal mine worker has been diagnosed with a reportable disease must give notice of the diagnosis to the chief inspector.	25 26 27 28
	Maximum penalty—40 penalty units.	29
(8)	In this section— <i>reportable disease</i> means a disease prescribed by	30 31

[s 36]

	regulation to be a disease that must be reported	1
	under this section.	2
Clause 36	Amendment of pt 14, div 1, hdg (Appeals against particular decisions of Minister or board of examiners)	3
	Part 14, division 1, heading, after ‘Minister’—	4
	<i>insert—</i>	5
	, chief executive	6
Clause 37	Insertion of new s 236A	7
	After section 236—	8
	<i>insert—</i>	9
	236A Appeals against chief executive’s decisions	10
	The following persons may appeal against the	11
	chief executive’s decision under the following	12
	provisions to an Industrial Magistrates Court	13
	under this division—	14
	(a) a person whose certificate of competency or	15
	site senior executive notice is suspended or	16
	cancelled by the chief executive—section	17
	197D;	18
	(b) a corporation on which a civil penalty is	19
	imposed—section 267I.	20
Clause 38	Amendment of s 238 (How to start appeal)	21
	(1) Section 238(1)(b)—	22
	<i>insert—</i>	23
	(ia) if the appeal is against the chief executive’s	24
	decision—the chief executive; or	25
	(2) Section 238(1)(b)(ia) and (ii)—	26
	<i>renumber</i> as section 238(1)(b)(ii) and (iii).	27
		28

Clause 39	Amendment of s 240 (Hearing procedures)	1
	(1) Section 240—	2
	<i>insert—</i>	3
	(2A) However, for deciding an appeal against a decision of the chief executive under section 267I to impose a civil penalty on a corporation, information that was not available to the chief executive in making the decision must not be taken into account.	4 5 6 7 8 9
	(2) Section 240(4), definition <i>original decision-maker</i> , after ‘Minister’—	10 11
	<i>insert—</i>	12
	, chief executive	13
	(3) Section 240(2A) to (4)—	14
	<i>renumber</i> as section 240(3) to (5).	15
Clause 40	Amendment of s 252 (Evidentiary aids)	16
	Section 252(1)(b), after ‘certificate,’—	17
	<i>insert—</i>	18
	notice,	19
Clause 41	Amendment of s 258 (Court may order suspension or cancellation of certificate)	20 21
	(1) Section 258, heading, after ‘certificate’—	22
	<i>insert—</i>	23
	or notice	24
	(2) Section 258, after ‘certificate of competency’—	25
	<i>insert—</i>	26
	or site senior executive notice	27
	(3) Section 258—	28

[s 42]

insert—

(4) The industrial magistrate must give notice of the decision to suspend or cancel the person's certificate of competency or site senior executive notice to—

(a) the following persons, to the extent the persons are known to the industrial magistrate—

(i) for a decision relating to a certificate of competency—the site senior executive for each coal mine at which the person works;

(ii) for a decision relating to a site senior executive notice—the coal mine operator for each coal mine at which the person works; and

(b) the board of examiners.

Clause 42 Amendment of s 261 (Responsibility for acts or omissions of representatives)

(1) Section 261(3), 'reasonable diligence'—

omit, insert—

reasonable precautions and proper diligence

(2) Section 261(4), definition *representative*, paragraph (a), 'executive'—

omit.

Clause 43 Omission of s 262 (Executive officers must ensure corporation complies with Act)

Section 262—

omit.

Clause 44	Insertion of new pt 15B	1
	After part 15A—	2
	<i>insert—</i>	3
	Part 15B	
	Civil penalties	4
	267E Definitions for part	5
	In this part—	6
	<i>civil penalty obligation</i> means a safety and health obligation, or another obligation under this Act, prescribed by regulation to be a civil penalty obligation.	7 8 9 10
	<i>corresponding offence</i> , in relation to a contravention of a civil penalty obligation, means an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.	11 12 13 14 15
	<i>penalty notice</i> see section 267I(3).	16
	<i>proposed penalty notice</i> see section 267G(2).	17
	<i>relevant corporation</i> means a coal mine operator or contractor that is a corporation.	18 19
	267F Liability for civil penalties	20
	(1) A relevant corporation is liable to pay the State a civil penalty if—	21 22
	(a) the relevant corporation contravenes a civil penalty obligation; or	23 24
	(b) a representative of the relevant corporation contravenes a civil penalty obligation.	25 26
	(2) A civil penalty may be imposed on the relevant corporation by a penalty notice given to the corporation by the chief executive.	27 28 29
	(3) The amount of the penalty is—	30

[s 44]

(a)	if the civil penalty obligation is a category 1 obligation—1,000 penalty units; or	1 2
(b)	if the civil penalty obligation is a category 2 obligation—750 penalty units; or	3 4
(c)	if the civil penalty obligation is a category 3 obligation—500 penalty units.	5 6
(4)	For subsection (3), the category of a civil penalty obligation is the category prescribed by regulation for the obligation.	7 8 9
(5)	In this section— <i>representative</i> , of a relevant corporation, means an officer, employee or agent of the corporation.	10 11 12
267G	Giving of notice proposing imposition of civil penalty	13 14
(1)	This section applies if the chief executive reasonably believes a relevant corporation is liable to pay a civil penalty on the grounds of a contravention of a civil penalty obligation.	15 16 17 18
(2)	The chief executive may give the corporation a notice (a <i>proposed penalty notice</i>) proposing to impose a civil penalty on the corporation on the grounds of the contravention.	19 20 21 22
(3)	The proposed penalty notice must state each of the following matters—	23 24
(a)	that the chief executive proposes to impose a civil penalty on the corporation;	25 26
(b)	the grounds for imposing the penalty;	27
(c)	the facts and circumstances forming the basis for the grounds;	28 29
(d)	that the corporation may, within a stated period of at least 14 days after the corporation is given the notice, make a written submission to the chief executive to	30 31 32 33

show why the civil penalty should not be imposed;	1 2
(e) the way in which the submission may be made.	3 4
267H Submission against proposed imposition of civil penalty	5 6
The relevant corporation may, within the period stated in the proposed penalty notice under section 267G(3)(d) and in the way stated in the notice, make a written submission to the chief executive to show why the civil penalty should not be imposed.	7 8 9 10 11 12
267I Giving of penalty notice	13
(1) This section applies if—	14
(a) the period under section 267H for making a submission against the imposition of the civil penalty has ended; and	15 16 17
(b) the chief executive has considered any submission made under that section; and	18 19
(c) the chief executive is satisfied—	20
(i) the civil penalty obligation mentioned in the proposed penalty notice has been contravened; and	21 22 23
(ii) the relevant corporation is liable to a civil penalty on the grounds of the contravention.	24 25 26
(2) The chief executive may decide to impose a civil penalty on the corporation on the grounds of the contravention.	27 28 29
(3) If the chief executive makes a decision under subsection (2), the chief executive must give the corporation a notice (a <i>penalty notice</i>) stating	30 31 32

[s 44]

- | | |
|---|-------------------|
| each of the following matters— | 1 |
| (a) the chief executive has decided to impose a civil penalty on the corporation; | 2
3 |
| (b) the reasons for the decision; | 4 |
| (c) the amount of the penalty and the day by which it must be paid; | 5
6 |
| (d) that the corporation may appeal to an Industrial Magistrates Court against the decision within 28 days after the corporation is given the penalty notice; | 7
8
9
10 |
| (e) how to appeal. | 11 |
| (4) The day for payment stated under subsection (3)(c) must not be less than 28 days after the penalty notice is given to the corporation. | 12
13
14 |
| (5) The State may recover the penalty from the corporation as a debt. | 15
16 |

267J Civil penalty can not be imposed after criminal proceeding 17
18

- | | |
|---|----------------------------|
| (1) A civil penalty must not be imposed on a relevant corporation on the grounds of a contravention of a civil penalty obligation if the corporation has been convicted or found guilty of a corresponding offence. | 19
20
21
22
23 |
| (2) Subsection (3) applies if— | 24 |
| (a) the chief executive has given a relevant corporation a proposed penalty notice in relation to a contravention of a civil penalty obligation; and | 25
26
27
28 |
| (b) before the chief executive makes a decision under section 267I, a criminal proceeding is started against the corporation for a corresponding offence. | 29
30
31
32 |
| (3) A civil penalty must not be imposed on the | 33 |

corporation on the grounds of the contravention 1
unless the criminal proceeding ends without the 2
corporation being convicted or found guilty of a 3
corresponding offence. 4

- (4) This section applies despite any other provision of 5
this part. 6

**267K Criminal proceeding after civil penalty 7
imposed 8**

A criminal proceeding may be started against a 9
relevant corporation for a corresponding offence 10
for a contravention of a civil penalty obligation 11
regardless of whether a civil penalty has been 12
imposed on the corporation for the contravention. 13

Clause 45 Amendment of s 275AC (Public statements) 14

- (1) Section 275AC(1)(b), ‘serious accidents’— 15
omit, insert— 16

accidents or high potential incidents 17

- (2) Section 275AC(1)(c), ‘or authorised officers’— 18
omit, insert— 19

, authorised officers or the chief executive 20

- (3) Section 275AC(1)(d), ‘under section 195(2)’— 21
omit, insert— 22

or site senior executive notice under section 23
195(2) or part 10A 24

- (4) Section 275AC(1)— 25
insert— 26

(e) any incident or other matter that may be 27
relevant to persons seeking to comply with 28
their safety and health obligations. 29

[s 46]

- (5) Section 275AC— 1
insert— 2
- (4) No liability is incurred by the State for anything 3
done in good faith for the purpose of issuing a 4
public statement under this section. 5
- (5) No liability is incurred by a person for publishing, 6
in good faith, information that has been included 7
in a public statement under this section. 8
- (6) In this section— 9
liability includes liability in defamation. 10

Clause 46 Amendment of s 275A (Disclosure of information) 11

- (1) Section 275A— 12
insert— 13
- (2A) Despite subsection (1), the chief inspector or chief 14
executive may disclose to the Regulator or 15
WorkCover, under the *Workers' Compensation 16
and Rehabilitation Act 2003*, any information the 17
chief inspector or chief executive has that relates 18
to any matter under that Act. 19
- (2) Section 275A(2A) and (3)— 20
renumber as section 275A(3) and (4). 21

Clause 47 Insertion of new pt 20, div 7 22

Part 20— 23

insert— 24

**Division 7 Transitional provisions for 25
Mines Legislation 26
(Resources Safety) 27
Amendment Act 2017 28**

307 Definitions for division	1
In this division—	2
<i>amended</i> , in relation to a provision of this Act,	3
means the provision as amended or inserted by the	4
<i>Mines Legislation (Resources Safety) Amendment</i>	5
<i>Act 2017</i> .	6
<i>transitional period</i> means the period starting on	7
the commencement and ending 3 years after the	8
commencement.	9
308 Appointment of ventilation officers for	10
 underground mines during transitional period	11
(1) This section applies to the appointment of the	12
ventilation officer, or acting ventilation officer,	13
for an underground mine during the transitional	14
period.	15
(2) Amended section 61(4) or 61A(6) does not apply	16
to the appointment.	17
309 Ventilation officers holding office when	18
 transitional period ends	19
(1) This section applies to a person who, when the	20
transitional period ends, is appointed as the	21
ventilation officer, or acting ventilation officer,	22
for an underground mine.	23
(2) The person’s appointment ends immediately after	24
the transitional period ends unless—	25
(a) the person holds a ventilation officer’s	26
certificate of competency; or	27
(b) the chief inspector extends the person’s	28
appointment for a further period of not more	29
than 3 years.	30
(3) The chief inspector may extend the person’s	31
appointment under subsection (2)(b) only if	32

[s 48]

	satisfied—	1
	(a) the person has started to take the steps necessary to obtain the certificate of competency; and	2 3 4
	(b) for an extension of more than 2 years—there are exceptional circumstances.	5 6
	(4) The chief inspector may impose conditions on the extension of the person’s appointment.	7 8
	(5) If the person does not comply with a condition of the extension, the person’s appointment ends.	9 10
	(6) This section applies despite section 61.	11
	310 Existing site senior executive notices	12
	(1) This section applies to a notice issued by the board of examiners to a person relating to the person’s competency to perform the duties of a site senior executive for a coal mine, if the notice was in force immediately before the commencement.	13 14 15 16 17 18
	(2) The notice is taken to be a site senior executive notice.	19 20
Clause 48	Amendment of sch 2 (Subject matter for regulations)	21
	Schedule 2, part 2, item 29—	22
	<i>omit, insert—</i>	23
	29 The health of persons who are, will be or have been employed at a coal mine, including about—	24 25 26
	(i) the appointment, qualifications and removal of doctors and other health practitioners for mines; and	27 28 29
	(ii) pre-employment and periodic medical examinations and health assessments to	30 31

	decide a person’s fitness for work at a coal mine and for the purpose of health surveillance; and	1 2 3
	(iii) the ownership, storage, confidentiality and release of the results of medical examinations and health assessments; and	4 5 6 7
	(iv) reciprocal arrangements between coal mining operations for the exchange of information or the recognition of medical examinations or health assessments.	8 9 10 11 12
	29A Requirements for holders of certificates of competency or site senior executive notices to undertake continuing professional development decided by the board of examiners.	13 14 15 16 17
Clause 49	Amendment of sch 3 (Dictionary)	18
	(1) Schedule 3, definitions <i>executive officer</i> , <i>officer</i> , <i>safety and health management system</i> , second mention, and <i>supplier</i> — <i>omit</i> .	19 20 21
	(2) Schedule 3— <i>insert</i> —	22 23
	<i>civil penalty obligation</i> , for part 15B, see section 267E.	24 25
	<i>corresponding offence</i> , in relation to a contravention of a civil penalty obligation, for part 15B, see section 267E.	26 27 28
	<i>officer</i> —	29
	(a) of a corporation, means an officer within the meaning of the Corporations Act, section 9, other than a partner in a partnership; or	30 31 32

[s 49]

- (b) for part 9, division 4, see section 132A. 1
penalty notice, for part 15B, see section 267I(3). 2
proposed action, for part 10A, see section 3
197B(1). 4
proposed action notice, for part 10A, see section 5
197B(2). 6
proposed penalty notice, for part 15B, see section 7
267G(2). 8
relevant corporation, for part 15B, see section 9
267E. 10
service provider see section 47(1). 11
site senior executive notices see section 185(e). 12
supplier, of plant, equipment, substances or other 13
goods, means a person who contracts to supply 14
the plant, equipment, substances or other goods to 15
a coal mine operator, contractor or service 16
provider. 17
workplace means a workplace to which the *Work* 18
Health and Safety Act 2011 applies. 19
- (3) Schedule 3, definition *coal mine worker*— 20
insert— 21
- (c) a service provider or employee of a service 22
provider. 23
- (4) Schedule 3, first occurring definition *safety and health* 24
management system, after ‘means a’— 25
insert— 26
single 27

Part 3	Amendment of Mining and Quarrying Safety and Health Act 1999	1 2 3
Clause 50	Act amended	4
	This part amends the <i>Mining and Quarrying Safety and Health Act 1999</i> .	5 6
Clause 51	Amendment of s 7 (How objects are to be achieved)	7
	Section 7—	8
	<i>insert—</i>	9
	(j) providing for the health assessment and health surveillance of persons who are, will be or have been workers.	10 11 12
Clause 52	Amendment of s 30 (Obligations for safety and health)	13
	Section 30—	14
	<i>insert—</i>	15
	(3) If a corporation has an obligation under this Act, an officer of the corporation has obligations under division 3A (also <i>safety and health obligations</i>).	16 17 18
Clause 53	Replacement of s 31 (Discharge of obligations)	19
	Section 31—	20
	<i>omit, insert—</i>	21
	31 Discharge of obligations	22
	A person on whom a safety and health obligation is imposed must discharge the obligation.	23 24
	Maximum penalty—	25

[s 53]

- | | |
|--|----------------|
| (a) if the contravention caused multiple deaths— | 1
2 |
| (i) for an offence committed by a corporation—30,000 penalty units; or | 3
4 |
| (ii) for an offence committed by an officer of a corporation—6,000 penalty units or 3 years imprisonment; or | 5
6
7 |
| (iii) otherwise—3,000 penalty units or 3 years imprisonment; or | 8
9 |
| (b) if the contravention caused death or grievous bodily harm— | 10
11 |
| (i) for an offence committed by a corporation—15,000 penalty units; or | 12
13 |
| (ii) for an offence committed by an officer of a corporation—3,000 penalty units or 2 years imprisonment; or | 14
15
16 |
| (iii) otherwise—1,500 penalty units or 2 years imprisonment; or | 17
18 |
| (c) if the contravention caused bodily harm— | 19 |
| (i) for an offence committed by a corporation—7,500 penalty units; or | 20
21 |
| (ii) for an offence committed by an officer of a corporation—1,500 penalty units or 1 year's imprisonment; or | 22
23
24 |
| (iii) otherwise—750 penalty units or 1 year's imprisonment; or | 25
26 |
| (d) if the contravention involved exposure to a substance that is likely to cause death or grievous bodily harm— | 27
28
29 |
| (i) for an offence committed by a corporation—5,000 penalty units; or | 30
31 |

	(ii) for an offence committed by an officer of a corporation—1,000 penalty units or 1 year’s imprisonment; or	1 2 3
	(iii) otherwise—500 penalty units or 1 year’s imprisonment; or	4 5
	(e) otherwise—	6
	(i) for an offence committed by a corporation—5,000 penalty units; or	7 8
	(ii) for an offence committed by an officer of a corporation—1,000 penalty units or 6 months imprisonment; or	9 10 11
	(iii) otherwise—500 penalty units or 6 months imprisonment.	12 13
Clause 54	Amendment of s 37 (Obligations of holders)	14
	(1) Section 37(1), from ‘and the operator’—	15
	<i>omit, insert—</i>	16
	proposes to appoint under section 48 another person as the operator for a mine.	17 18
	(2) Section 37(2) and (3)—	19
	<i>omit, insert—</i>	20
	(2) The holder must inform the proposed operator, by notice, of all relevant information available to the holder that may help the proposed operator ensure the site senior executive for the mine develops and implements a safety and health management system for the mine.	21 22 23 24 25 26
Clause 55	Amendment of s 38 (Obligations of operators)	27
	Section 38(3) and (4)—	28
	<i>omit.</i>	29

[s 56]

Clause 56	Amendment of s 39 (Obligations of site senior executive for mine)	1 2
(1)	Section 39(1)(b), from ‘by someone’ to ‘workers’— <i>omit.</i>	3 4
(2)	Section 39(1)(c)— <i>omit, insert—</i>	5 6
	(c) to develop and implement a safety and health management system for all persons at the mine, including contractors and service providers;	7 8 9 10
	(ca) to give a contractor at the mine information in the site senior executive’s possession about all relevant components of the mine’s safety and health management system, required by the contractor to—	11 12 13 14 15
	(i) identify risks arising in relation to any work to be undertaken by the contractor at the mine; and	16 17 18
	(ii) comply with section 40(1)(d);	19
	(cb) to give a service provider at the mine information in the site senior executive’s possession about all relevant components of the mine’s safety and health management system, required by the service provider to—	20 21 22 23 24 25
	(i) identify risks arising in relation to any service to be provided by the service provider at the mine; and	26 27 28
	(ii) comply with section 44(1)(f);	29
	(cc) to review safety and health management plans of contractors and service providers within the meaning of section 40 or 44 and, if necessary, require changes to be made to those plans to enable them to be integrated	30 31 32 33 34

	with the mine's safety and health management system;	1 2
(3)	Section 39(1)(e)—	3
	<i>omit, insert—</i>	4
	(e) to ensure no work is undertaken by a worker at the mine until the worker—	5 6
	(i) has been inducted in the mine's safety and health management system to the extent it relates to the work to be undertaken by the worker; and	7 8 9 10
	(ii) has received training about hazards and risks at the mine to the extent they relate to the work to be undertaken by the worker; and	11 12 13 14
	(iii) has received training so the worker is competent to perform the worker's duties;	15 16 17
(4)	Section 39(1)(f)—	18
	<i>insert—</i>	19
	(vi) adequate supervision and monitoring of contractors and service providers at the mine.	20 21 22
(5)	Section 39(1)(ca) to (f)—	23
	<i>renumber</i> as section 39(1)(d) to (i).	24
(6)	Section 39(2) and (3)—	25
	<i>omit.</i>	26
Clause 57	Replacement of s 40 (Obligations of contractors)	27
	Section 40—	28
	<i>omit, insert—</i>	29

[s 57]

40 Obligations of contractors	1
(1) A contractor at a mine has the following obligations—	2 3
(a) to ensure the contractor complies with this Act to the extent it relates to the work undertaken by the contractor;	4 5 6
(b) to ensure the contractor complies with the mine’s safety and health management system to the extent it relates to the work undertaken by the contractor;	7 8 9 10
(c) to ensure the contractor’s own safety and health, and the safety and health of others, is not adversely affected by the way the contractor undertakes work at the mine;	11 12 13 14
(d) to ensure no work is undertaken by the contractor until the contractor—	15 16
(i) has given the site senior executive for the mine a safety and health management plan; and	17 18 19
(ii) has made all changes to the contractor’s safety and health management plan required by the site senior executive to enable the plan to be integrated with the mine’s safety and health management system;	20 21 22 23 24 25
(e) to ensure no work is undertaken by the contractor until the contractor and each worker engaged by the contractor—	26 27 28
(i) has been inducted in the mine’s safety and health management system to the extent it relates to the work to be undertaken by the contractor or worker; and	29 30 31 32 33
(ii) has received training about hazards and risks at the mine to the extent they	34 35

	relate to the work to be undertaken by	1
	the contractor or worker.	2
(2)	In this section—	3
	<i>safety and health management plan</i> , of a	4
	contractor, means a plan that—	5
(a)	identifies the work to be undertaken by the	6
	contractor; and	7
(b)	states how the contractor intends to comply	8
	with the contractor’s obligations under this	9
	section.	10
Clause 58	Amendment of s 41 (Obligations of designers,	11
	manufacturers, importers and suppliers of plant etc. for	12
	use at mines)	13
(1)	Section 41(4), after paragraph (a)—	14
	<i>insert—</i>	15
(aa)	if the designer, manufacturer, importer or	16
	supplier becomes aware of a hazard or	17
	defect associated with the plant that may	18
	create an unacceptable level of risk to users	19
	of the plant, to inform the chief inspector	20
	of—	21
(i)	the nature of the hazard or defect and	22
	its significance; and	23
(ii)	any modifications or controls of which	24
	the designer, manufacturer, importer or	25
	supplier is aware that have been	26
	developed to eliminate or correct the	27
	hazard or defect or manage the risk;	28
	and	29
(iii)	the name of each operator, contractor	30
	or service provider the designer,	31
	manufacturer, importer or supplier has	32
	supplied the plant to; and	33

[s 59]

- (iv) the steps taken to notify the operators, contractors and service providers about the matters mentioned in subparagraphs (i) and (ii); 1
2
3
4
- (2) Section 41(4)(b), example, ‘(4)(b)’— 5
omit, insert— 6
(4)(c) 7
- (3) Section 41(4)(aa) and (b)— 8
renumber as section 41(4)(b) and (c). 9

Clause 59 Amendment of s 43 (Obligations of manufacturers, importers and suppliers of substances for use at mines) 10
11

- (1) Section 43(2), after paragraph (a)— 12
insert— 13
 - (aa) if the manufacturer, importer or supplier becomes aware of a hazard or defect associated with the substance that may create an unacceptable level of risk to users of the substance, to inform the chief inspector of— 14
15
16
17
18
19
 - (i) the nature of the hazard or defect and its significance; and 20
21
 - (ii) any modifications or controls of which the manufacturer, importer or supplier is aware that have been developed to eliminate or correct the hazard or defect or manage the risk; and 22
23
24
25
26
 - (iii) the name of each operator, contractor or service provider the designer, manufacturer, importer or supplier has supplied the substance to; and 27
28
29
30
 - (iv) the steps taken to notify the operators, contractors and service providers about 31
32

	the matters mentioned in	1
	subparagraphs (i) and (ii);	2
(2)	Section 43(2)(b), example, ‘(2)(b)’—	3
	<i>omit, insert—</i>	4
	(2)(c)	5
(3)	Section 43(2)(aa) and (b)—	6
	<i>renumber</i> as section 43(2)(b) and (c).	7
(4)	Section 43—	8
	<i>insert—</i>	9
	(4) If a supplier of a substance for use at a mine	10
	becomes aware of a hazard or defect associated	11
	with the substance that may create an	12
	unacceptable level of risk to users of the	13
	substance, the supplier has an obligation to take	14
	all reasonable steps to inform each operator,	15
	contractor or service provider to whom the	16
	supplier has supplied the substance of—	17
	(a) the nature of the hazard or defect and its	18
	significance; and	19
	(b) any modifications or controls the supplier is	20
	aware of that have been developed to	21
	eliminate or correct the hazard or defect or	22
	manage the risk.	23
Clause 60	Replacement of s 44 (Obligation of provider of services at	24
	mines)	25
	Section 44—	26
	<i>omit, insert—</i>	27
	44 Obligations of service providers	28
	(1) A person who provides a service (a <i>service</i>	29
	<i>provider</i>) at a mine has the following	30
	obligations—	31

[s 60]

- (a) to ensure the service provider complies with this Act to the extent it relates to the service provided; 1
2
3
- (b) to ensure the service provider complies with the mine’s safety and health management system to the extent it relates to the service provided; 4
5
6
7
- (c) to ensure the safety and health of workers or other persons is not adversely affected by the service provided; 8
9
10
- (d) if the service provider is present at the mine—to ensure the service provider’s own safety and health is not adversely affected by the service provided; 11
12
13
14
- (e) to ensure the fitness for use of plant at the mine is not adversely affected by the service provided; 15
16
17
- (f) to ensure the service is not provided until the service provider— 18
19
 - (i) has identified the risks arising in relation to any service to be provided by the service provider at the mine; and 20
21
22
 - (ii) has either given the site senior executive for the mine a safety and health management plan or notified the site senior executive that the service provider wishes to adopt the mine’s safety and health management system; and 23
24
25
26
27
28
29
 - (iii) if the service provider has given the site senior executive a safety and health management plan—has made all changes to the plan required by the site senior executive to enable the plan to be integrated with the mine’s safety and health management system; 30
31
32
33
34
35
36

(g)	to ensure the service is not provided until the service provider and each worker engaged by the service provider—	1 2 3
(i)	has been inducted in the mine’s safety and health management system to the extent it relates to the service to be provided by the service provider or worker; and	4 5 6 7 8
(ii)	has received training about hazards and risks at the mine to the extent they relate to the service to be provided by the service provider or worker.	9 10 11 12
(2)	In this section—	13
	<i>safety and health management plan</i> , of a service provider, means a plan that—	14 15
(a)	identifies the service to be provided by the service provider; and	16 17
(b)	states how the service provider intends to comply with the service provider’s obligations under this section.	18 19 20
Clause 61	Insertion of new pt 3, div 3A	21
	Part 3—	22
	<i>insert</i> —	23
	Division 3A Obligations of officers of corporations	24 25
	44A Obligation of officers of corporations	26
(1)	If a corporation has an obligation under this Act, an officer of the corporation must exercise due diligence to ensure the corporation complies with the obligation.	27 28 29 30
(2)	An officer of a corporation may be convicted or	31

[s 61]

- found guilty of an offence under this Act relating to an obligation of the officer whether or not the corporation has been convicted or found guilty of an offence under this Act relating to an obligation of the corporation. 1
2
3
4
5
- (3) In this section, *due diligence* includes taking reasonable steps— 6
7
- (a) to acquire and keep up-to-date knowledge of mine safety and health matters; and 8
9
- (b) to gain an understanding of the nature of operations at a mine and generally of the hazards and risks associated with those operations; and 10
11
12
13
- (c) to ensure the corporation has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to safety and health from work carried out as part of operations; and 14
15
16
17
18
- (d) to ensure the corporation has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information; and 19
20
21
22
23
- (e) to ensure the corporation has, and implements, processes for complying with any obligation of the corporation under this Act; and 24
25
26
27
- (f) to verify the provision and use of the resources and processes mentioned in paragraphs (c) to (e). 28
29
30
- (4) In this section— 31
- officer*, of a corporation, does not include a person appointed as, or whose position reports directly or indirectly to, the site senior executive for a mine. 32
33
34
35

Clause 62	Amendment of s 45 (Defences for div 2 or 3)	1
	Section 45, ‘2 or 3’—	2
	<i>omit, insert</i> —	3
	2, 3 or 3A	4
Clause 63	Amendment of s 49 (Appointment of site senior executive)	5
	(1) Section 49—	6
	<i>insert</i> —	7
	(3A) If more than 10 workers are employed at a mine or the mine is prescribed by regulation to be a mine to which this subsection applies, an operator for the mine must not appoint a person to be site senior executive for the mine, or a separate part of the mine, unless the person holds a site senior executive notice.	8
	Maximum penalty—500 penalty units.	9
	(3B) A regulation may prescribe a mine to be a mine to which subsection (4) applies because of the size, nature or complexities of the mine’s operations.	10
	(2) Section 49(3A) to (4)—	11
	<i>renumber</i> as section 49(4) to (6).	12
		13
		14
		15
		16
		17
		18
		19
		20
		21
Clause 64	Amendment of s 50 (Management structure for safe operations at mines)	22
	Section 50(2)—	23
	<i>insert</i> —	24
	(ca) state the name of the person who is responsible for managing the system of work for contractors and service providers at the mine; and	25
		26
		27
		28

[s 65]

Clause 65	Insertion of new ss 54A and 54B	1
	Part 4, division 2—	2
	<i>insert—</i>	3
	54A Appointment of ventilation officer	4
	(1) This section applies to an underground mine.	5
	(2) The site senior executive for the mine must appoint a person as the ventilation officer for the mine.	6 7 8
	Maximum penalty—200 penalty units.	9
	(3) The site senior executive must not appoint a person as the ventilation officer for the mine unless—	10 11 12
	(a) if more than 10 persons but not more than 20 persons work underground in the mine or the mine is prescribed by regulation to be a mine to which this paragraph applies—the site senior executive is satisfied the person is competent to perform the duties of the ventilation officer for the mine; or	13 14 15 16 17 18 19
	(b) if more than 20 persons work underground in the mine or the mine is prescribed by regulation to be a mine to which this paragraph applies—the person has competencies recognised by the committee as appropriate for the duties and responsibilities of the position.	20 21 22 23 24 25 26
	Maximum penalty—200 penalty units.	27
	(4) A regulation may prescribe an underground mine to be a mine to which subsection (3)(a) or (b) applies because of the size, nature or complexities of the mine’s operations.	28 29 30 31
	(5) The ventilation officer for the mine is responsible for—	32 33

(a) the implementation of the mine’s ventilation system; and	1 2
(b) the establishment of effective standards of ventilation for the mine.	3 4
(6) The site senior executive must not appoint a person as ventilation officer at more than 1 mine at the same time unless the chief inspector gives the site senior executive notice that the chief inspector is satisfied the person can effectively carry out the duties of the ventilation officer at the mines.	5 6 7 8 9 10 11
Maximum penalty for subsection (6)—200 penalty units.	12 13
54B Absence of ventilation officer	14
(1) This section applies if the ventilation officer appointed under section 54A for an underground mine is temporarily absent from duty.	15 16 17
(2) If the absence is for not more than 14 days, the duties and responsibilities of the ventilation officer are taken to be assumed by the underground mine manager during the absence.	18 19 20 21
(3) Subsection (2) applies regardless of whether the underground mine manager satisfies any requirements that apply under section 54A(3)(a) or (b) for appointing a person as the ventilation officer for the mine.	22 23 24 25 26
(4) An inspector may, by notice—	27
(a) require an underground mine manager assuming the duties and responsibilities of the ventilation officer to demonstrate to the inspector’s satisfaction that the manager can effectively carry out the duties and responsibilities of both the underground	28 29 30 31 32 33

[s 66]

	mine manager and the ventilation officer;	1
	and	2
	(b) if the underground mine manager can not satisfy the inspector as mentioned in paragraph (a)—require the site senior executive for the mine to appoint a person to act as the ventilation officer during the remainder of the absence.	3 4 5 6 7 8
(5)	If the absence is for more than 14 days or the site senior executive is given a notice under subsection (4)(b), the site senior executive for the mine must appoint a person to act as the ventilation officer during the absence.	9 10 11 12 13
	Maximum penalty—200 penalty units.	14
(6)	The site senior executive must not appoint a person under subsection (5) unless the person satisfies any requirements that apply under section 54A(3)(a) or (b) for appointing a person as the ventilation officer for the mine.	15 16 17 18 19
	Maximum penalty—200 penalty units.	20
Clause 66	Amendment of s 55 (Safety and health management system)	21 22
(1)	Section 55(1) and (2)—	23
	<i>omit, insert—</i>	24
(1)	The safety and health management system, for a mine, is a single system that incorporates risk management elements and practices that ensure the safety and health of persons who may be affected by operations.	25 26 27 28 29
(2)	The safety and health management system must be a single, auditable documented system that forms part of an overall management system that includes organisational structure, planning activities, responsibilities, practices, procedures	30 31 32 33 34

	and resources for developing, implementing, maintaining and reviewing a safety and health policy.	1 2 3
	(2A) The safety and health management system must provide a single, comprehensive and integrated system for the management of all aspects of risks to safety and health in relation to the operation of the mine.	4 5 6 7 8
	(2B) The safety and health management system for a mine must be in place before operations start at the mine.	9 10 11
(2)	Section 55(2A) to (3)— <i>renumber</i> as section 55(3) to (5).	12 13
Clause 67	Amendment of s 69 (Membership of committee)	14
	Section 69(1), ‘9’— <i>omit, insert</i> —	15 16
	10	17
Clause 68	Amendment of s 71 (Appointment of members)	18
(1)	Section 71, heading, after ‘members’— <i>insert</i> — —persons from panels	19 20 21
(2)	Section 71(4)— <i>omit.</i>	22 23
(3)	Section 71(5), after ‘operations’— <i>insert</i> — or the Minister otherwise considers the person appropriate to be a member of the committee	24 25 26 27
(4)	Section 71(8), ‘who are not inspectors’—	28

[s 69]

omit, insert— 1
mentioned in this section 2

Clause 69 Insertion of new s 71A 3

After section 71— 4

insert— 5

71A Appointment of members—inspectors 6

(1) The chief inspector is a member of the committee. 7

(2) The Minister must appoint 2 other inspectors to be
members of the committee. 8
9

Clause 70 Amendment of s 130 (Entry to places) 10

(1) Section 130(1)(e)— 11

omit, insert— 12

(e) it is, or the officer reasonably suspects it is, a
workplace. 13
14

(2) Section 130(2), after ‘For’— 15

insert— 16

subsection (1)(a), for 17

(3) Section 130(3)— 18

omit, insert— 19

(3) For subsection (1)(e), an entry may be made with,
or without, the consent of the person with
management or control of the workplace. 20
21
22

(4) Section 130(5)— 23

omit. 24

Clause 71 Insertion of new s 135A 25

Part 9, division 4, subdivision 3— 26

insert—

135A Entry to residential premises

Despite anything else in this division, the powers of an officer under this division in relation to entering a place are not exercisable in relation to any part of a place that is used for residential purposes except—

- (a) with the consent of the person with the management or control of the place; or
- (b) under the authority conferred by a search warrant; or
- (c) for the purpose only of gaining access to a suspected workplace, but only—
 - (i) if the officer reasonably believes no reasonable alternative access is available; and
 - (ii) at a reasonable time having regard to the times at which the officer believes work is being carried out at the place to which access is sought.

Clause 72 Amendment of s 180 (Functions of the board of examiners)

Section 180—

insert—

- (e) to issue notices (*site senior executive notices*) to persons who have demonstrated to the board's satisfaction the safety and health competencies, recognised by the committee under section 67, required to perform the duties of a site senior executive for a mine;
- (f) to perform any other function conferred on the board of examiners under this Act.

[s 73]

Clause 73	Insertion of new s 181A	1
	After section 181—	2
	<i>insert—</i>	3
	181A Board of examiners may consider previous suspension or cancellation of certificate of competency or site senior executive notice	4
		5
		6
	(1) This section applies if—	7
	(a) a person has applied for the grant of a certificate of competency or site senior executive notice; and	8
		9
		10
	(b) a certificate of competency or site senior executive notice previously held by the person was suspended or cancelled under this Act.	11
		12
		13
		14
	(2) The board of examiners may have regard to the previous suspension or cancellation in deciding the application.	15
		16
		17
	(3) Subsection (2) does not limit the matters to which the board of examiners may have regard in deciding the application.	18
		19
		20
Clause 74	Amendment of s 182 (Obtaining certificates of competency by fraud)	21
		22
	(1) Section 182, heading, after ‘competency’—	23
	<i>insert—</i>	24
	or site senior executive notices	25
	(2) Section 182, after ‘certificate of competency’—	26
	<i>insert—</i>	27
	or site senior executive notice	28
	(3) Section 182—	29
	<i>insert—</i>	30
	(3) If the board of examiners decides to cancel a	31

	certificate of competency or site senior executive notice, the board must give notice of the decision to the following persons, to the extent the persons are known to the board—	1 2 3 4
	(a) for a decision relating to a certificate of competency—the site senior executive for each mine at which the holder works;	5 6 7
	(b) for a decision relating to a site senior executive notice—the operator for each mine at which the holder works.	8 9 10
Clause 75	Amendment of s 183 (Return of certificate of competency)	11 12
	(1) Section 183, after ‘certificate of competency’— <i>insert—</i> or site senior executive notice	13 14 15
	(2) Section 183, after ‘the certificate’— <i>insert—</i> or notice	16 17 18
	(3) Section 183— <i>insert—</i> (c) the chief executive suspends or cancels the certificate or notice under part 10A.	19 20 21 22
Clause 76	Insertion of new ss 184 and 185	23
	Part 10— <i>insert—</i>	24 25
	184 Effect on particular appointments of suspension or cancellation of certificate of competency or site senior executive notice	26 27 28
	(1) This section applies if—	29

[s 76]

- (a) a certificate of competency or site senior executive notice held by a person is suspended or cancelled under this Act; and
 - (b) immediately before the suspension or cancellation took effect, the person held an appointment under this Act; and
 - (c) this Act requires a person to hold the certificate of competency or site senior executive notice to be appointed to the position.
- (2) The person's appointment to the position ends on the suspension or cancellation of the person's certificate of competency or site senior executive notice.

185 Register to be kept by board of examiners

- (1) The board of examiners must keep a register of—
- (a) certificates of competency granted by the board; and
 - (b) site senior executive notices issued by the board; and
 - (c) notices of registration given by the board under a mutual recognition Act.
- (2) The register must include the following information—
- (a) for a certificate of competency or site senior executive notice—
 - (i) the name and contact details of the holder of the certificate or notice; and
 - (ii) details of the certificate or notice; and
 - (iii) the status of the certificate or notice, including, if it has been suspended or cancelled under this Act, details of the suspension or cancellation;

	(b) for a notice mentioned in subsection (1)(c)—the name and contact details of the person to whom the notice was given;	1 2 3	
	(c) any other information prescribed by regulation.	4 5	
	(3) The board of examiners may disclose information in the register, other than the contact details of an individual, to any person or agency.	6 7 8	
	(4) In this section— <i>mutual recognition Act</i> means—	9 10	
	(a) the <i>Mutual Recognition Act 1992</i> (Cwlth); or	11 12	
	(b) the <i>Trans-Tasman Mutual Recognition Act 1997</i> (Cwlth).	13 14	
Clause 77	Insertion of new pt 10A	15	
	After part 10—	16	
	<i>insert—</i>	17	
	Part 10A	Suspension and cancellation of certificates of competency and site senior executive notices by chief executive	18 19 20 21 22 23 24
	186 Grounds for suspension or cancellation	25	
	(1) Each of the following is a ground for suspending or cancelling a person’s certificate of competency under this part—	26 27 28	

[s 77]

- | | | |
|--|--|----------------------|
| (a) | the person has contravened a safety and health obligation; | 1
2 |
| (b) | the person has committed an offence against a law of Queensland or another State (a <i>corresponding law</i>) relating to mining safety; | 3
4
5
6 |
| (c) | a certificate, equivalent to a certificate of competency, that was issued to the person under a corresponding law of another State has been suspended or cancelled. | 7
8
9
10 |
| (2) | Each of the following is a ground for suspending or cancelling a person's site senior executive notice under this part— | 11
12
13 |
| (a) | the person has contravened a safety and health obligation; | 14
15 |
| (b) | the person has committed an offence against a corresponding law. | 16
17 |
|
187 Notice of proposed action | |
18 |
| (1) | This section applies if the chief executive considers there is a ground to suspend or cancel a person's certificate of competency or site senior executive notice (the <i>proposed action</i>). | 19
20
21
22 |
| (2) | Before taking the proposed action, the chief executive must give the person a notice (a <i>proposed action notice</i>) stating each of the following matters— | 23
24
25
26 |
| (a) | the proposed action; | 27 |
| (b) | the ground for the proposed action; | 28 |
| (c) | an outline of the facts and circumstances forming the basis for the ground; | 29
30 |
| (d) | if the proposed action is to suspend the certificate of competency or site senior | 31
32 |

executive notice—the proposed period of the suspension;	1 2
(e) that the person may make a written submission to the chief executive, within a stated period of at least 28 days, to show why the proposed action should not be taken.	3 4 5 6 7
188 Submission against taking of proposed action	8
The person may, within the period stated in the proposed action notice under section 187(2)(e), make a written submission to the chief executive to show why the proposed action should not be taken.	9 10 11 12 13
189 Decision to take proposed action	14
(1) This section applies if—	15
(a) the period stated in the proposed action notice under section 187(2)(e) has ended; and	16 17 18
(b) the chief executive has considered any written submission made by the person under section 188; and	19 20 21
(c) the chief executive still considers a ground exists to take the proposed action.	22 23
(2) The chief executive may decide—	24
(a) if the proposed action was to suspend the certificate of competency or site senior executive notice—to suspend the certificate or notice for no longer than the proposed period of the suspension stated in the proposed action notice; or	25 26 27 28 29 30
(b) if the proposed action was to cancel the certificate of competency or site senior	31 32

[s 78]

	executive notice—to cancel the certificate	1
	or notice or suspend it for a period.	2
(3)	The chief executive must give the person notice of the decision.	3 4
(4)	The notice must state each of the following matters—	5 6
	(a) the chief executive’s decision;	7
	(b) the reasons for the decision;	8
	(c) that the person may appeal against the decision within 28 days;	9 10
	(d) how the person may appeal;	11
	(e) that the person may apply for a stay of the decision if the person appeals against it.	12 13
(5)	The decision takes effect on the day the notice is given to the person.	14 15
(6)	The chief executive must give notice of the decision to—	16 17
	(a) the following persons, to the extent the persons are known to the chief executive—	18 19
	(i) for a decision relating to a certificate of competency—the site senior executive for each mine at which the person works;	20 21 22 23
	(ii) for a decision relating to a site senior executive notice—the operator for each mine at which the person works; and	24 25 26
	(b) the board of examiners.	27
Clause 78	Amendment of s 195 (Notice of accidents, incidents, deaths or diseases)	28 29
(1)	Section 195(6), from ‘disease at a mine’ to ‘this section’—	30
	<i>omit, insert—</i>	31

	reportable disease at a mine or as a result of operations	1 2
(2)	Section 195— <i>insert—</i>	3 4
(7)	A person prescribed by regulation who becomes aware that a worker has been diagnosed with a reportable disease must give notice of the diagnosis to the chief inspector. Maximum penalty—40 penalty units.	5 6 7 8 9
(8)	In this section— <i>reportable disease</i> means a disease prescribed by regulation to be a disease that must be reported under this section.	10 11 12 13
Clause 79	Amendment of pt 13, div 1, hdg (Appeals against particular decisions of Minister or board of examiners) Part 13, division 1, heading, after ‘Minister’— <i>insert—</i> , chief executive	14 15 16 17 18
Clause 80	Insertion of new s 216A After section 216— <i>insert—</i> 216A Appeals against chief executive’s decisions The following persons may appeal against the chief executive’s decision under the following provisions to an Industrial Magistrates Court under this division— (a) a person whose certificate of competency or site senior executive notice is suspended or cancelled by the chief executive—section 189;	19 20 21 22 23 24 25 26 27 28 29 30

[s 81]

	(b) a corporation on which a civil penalty is imposed—section 246I.	1 2
Clause 81	Amendment of s 218 (How to start appeal)	3
	(1) Section 218(1)(b)—	4
	<i>insert—</i>	5
	(ia) if the appeal is against the chief executive’s decision—the chief executive; or	6 7
	(2) Section 218(1)(b)(ia) and (ii)—	8
	<i>renumber</i> as section 218(1)(b)(ii) and (iii).	9
Clause 82	Amendment of s 220 (Hearing procedures)	10
	(1) Section 220—	11
	<i>insert—</i>	12
	(2A) However, for deciding an appeal against a decision of the chief executive under section 246I to impose a civil penalty on a corporation, information that was not available to the chief executive in making the decision must not be taken into account.	13 14 15 16 17 18
	(2) Section 220(4), definition <i>original decision-maker</i> , after ‘Minister’—	19 20
	<i>insert—</i>	21
	, chief executive	22
	(3) Section 220(2A) to (4)—	23
	<i>renumber</i> as section 220(3) to (5).	24
Clause 83	Amendment of s 231 (Evidentiary aids)	25
	Section 231(1)(b), after ‘certificate,’—	26
	<i>insert—</i>	27

	notice,	1
Clause 84	Amendment of s 237 (Court may order suspension or cancellation of certificate)	2 3
	(1) Section 237, heading, after ‘certificate’—	4
	<i>insert—</i>	5
	or notice	6
	(2) Section 237, after ‘certificate of competency’—	7
	<i>insert—</i>	8
	or site senior executive notice	9
	(3) Section 237—	10
	<i>insert—</i>	11
	(4) The industrial magistrate must give notice of the decision to suspend or cancel the person’s certificate of competency or site senior executive notice to—	12 13 14 15
	(a) the following persons, to the extent the persons are known to the industrial magistrate—	16 17 18
	(i) for a decision relating to a certificate of competency—the site senior executive for each mine at which the person works;	19 20 21 22
	(ii) for a decision relating to a site senior executive notice—the operator for each mine at which the person works; and	23 24 25
	(b) the board of examiners.	26
Clause 85	Amendment of s 240 (Responsibility for acts or omissions of representatives)	27 28
	(1) Section 240(3), ‘reasonable diligence’—	29

[s 86]

omit, insert— 1

reasonable precautions and proper diligence 2

(2) Section 240(4), definition *representative*, paragraph (a),
'executive'— 3
4

omit. 5

**Clause 86 Omission of s 241 (Executive officers must ensure
corporation complies with Act)** 6
7

Section 241— 8

omit. 9

Clause 87 Insertion of new pt 14B 10

After part 14A— 11

insert— 12

Part 14B Civil penalties 13

246E Definitions for part 14

In this part— 15

civil penalty obligation means a safety and health
obligation, or another obligation under this Act,
prescribed by regulation to be a civil penalty
obligation. 16
17
18
19

corresponding offence, in relation to a
contravention of a civil penalty obligation, means
an offence constituted by conduct that is
substantially the same as the conduct constituting
the contravention. 20
21
22
23
24

penalty notice see section 246I(3). 25

proposed penalty notice see section 246G(2). 26

relevant corporation means an operator or
contractor that is a corporation. 27
28

246FLiability for civil penalties	1
(1) A relevant corporation is liable to pay the State a civil penalty if—	2 3
(a) the relevant corporation contravenes a civil penalty obligation; or	4 5
(b) a representative of the relevant corporation contravenes a civil penalty obligation.	6 7
(2) A civil penalty may be imposed on the relevant corporation by a penalty notice given to the corporation by the chief executive.	8 9 10
(3) The amount of the penalty is—	11
(a) if the civil penalty obligation is a category 1 obligation—1,000 penalty units; or	12 13
(b) if the civil penalty obligation is a category 2 obligation—750 penalty units; or	14 15
(c) if the civil penalty obligation is a category 3 obligation—500 penalty units.	16 17
(4) For subsection (3), the category of a civil penalty obligation is the category prescribed by regulation for the obligation.	18 19 20
(5) In this section—	21
<i>representative</i> , of a relevant corporation, means an officer, employee or agent of the corporation.	22 23
246GGiving of notice proposing imposition of civil penalty	24 25
(1) This section applies if the chief executive reasonably believes a relevant corporation is liable to pay a civil penalty on the grounds of a contravention of a civil penalty obligation.	26 27 28 29
(2) The chief executive may give the corporation a notice (a <i>proposed penalty notice</i>) proposing to impose a civil penalty on the corporation on the	30 31 32

[s 87]

- grounds of the contravention. 1
- (3) The proposed penalty notice must state each of 2
the following matters— 3
- (a) that the chief executive proposes to impose a 4
civil penalty on the corporation; 5
- (b) the grounds for imposing the penalty; 6
- (c) the facts and circumstances forming the 7
basis for the grounds; 8
- (d) that the corporation may, within a stated 9
period of at least 14 days after the 10
corporation is given the notice, make a 11
written submission to the chief executive to 12
show why the civil penalty should not be 13
imposed; 14
- (e) the way in which the submission may be 15
made. 16
- 246H Submission against proposed imposition of 17
civil penalty 18**
- The relevant corporation may, within the period 19
stated in the proposed penalty notice under 20
section 246G(3)(d) and in the way stated in the 21
notice, make a written submission to the chief 22
executive to show why the civil penalty should 23
not be imposed. 24
- 246I Giving of penalty notice 25**
- (1) This section applies if— 26
- (a) the period under section 246H for making a 27
submission against the imposition of the 28
civil penalty has ended; and 29
- (b) the chief executive has considered any 30
submission made under that section; and 31

-
- (c) the chief executive is satisfied— 1
- (i) the civil penalty obligation mentioned 2
in the proposed penalty notice has been 3
contravened; and 4
 - (ii) the relevant corporation is liable to a 5
civil penalty on the grounds of the 6
contravention. 7
- (2) The chief executive may decide to impose a civil 8
penalty on the corporation on the grounds of the 9
contravention. 10
- (3) If the chief executive makes a decision under 11
subsection (2), the chief executive must give the 12
corporation a notice (a *penalty notice*) stating 13
each of the following matters— 14
- (a) the chief executive has decided to impose a 15
civil penalty on the corporation; 16
 - (b) the reasons for the decision; 17
 - (c) the amount of the penalty and the day by 18
which it must be paid; 19
 - (d) that the corporation may appeal to an 20
Industrial Magistrates Court against the 21
decision within 28 days after the corporation 22
is given the penalty notice; 23
 - (e) how to appeal. 24
- (4) The day for payment stated under subsection 25
(3)(c) must not be less than 28 days after the 26
penalty notice is given to the corporation. 27
- (5) The State may recover the penalty from the 28
corporation as a debt. 29
- 246J Civil penalty can not be imposed after criminal 30
proceeding 31**
- (1) A civil penalty must not be imposed on a relevant 32
corporation on the grounds of a contravention of a 33
-

[s 88]

	civil penalty obligation if the corporation has been convicted or found guilty of a corresponding offence.	1 2 3
(2)	Subsection (3) applies if—	4
(a)	the chief executive has given a relevant corporation a proposed penalty notice in relation to a contravention of a civil penalty obligation; and	5 6 7 8
(b)	before the chief executive makes a decision under section 246I, a criminal proceeding is started against the corporation for a corresponding offence.	9 10 11 12
(3)	A civil penalty must not be imposed on the corporation on the grounds of the contravention unless the criminal proceeding ends without the corporation being convicted or found guilty of a corresponding offence.	13 14 15 16 17
(4)	This section applies despite any other provision of this part.	18 19
	246K Criminal proceeding after civil penalty imposed	20 21
	A criminal proceeding may be started against a relevant corporation for a corresponding offence for a contravention of a civil penalty obligation regardless of whether a civil penalty has been imposed on the corporation for the contravention.	22 23 24 25 26
Clause 88	Amendment of s 254C (Public statements)	27
(1)	Section 254C(1)(b), ‘serious accidents’—	28
	<i>omit, insert—</i>	29
	accidents or high potential incidents	30
(2)	Section 254C(1)(c), ‘or authorised officers’—	31

omit, insert— 1

, authorised officers or the chief executive 2

(3) Section 254C(1)(d), ‘under section 182(2)’— 3

omit, insert— 4

or site senior executive notice under section 5

182(2) or part 10A 6

(4) Section 254C(1)— 7

insert— 8

(e) any incident or other matter that may be 9

relevant to persons seeking to comply with 10

their safety and health obligations. 11

(5) Section 254C— 12

insert— 13

(4) No liability is incurred by the State for anything 14

done in good faith for the purpose of issuing a 15

public statement under this section. 16

(5) No liability is incurred by a person for publishing, 17

in good faith, information that has been included 18

in a public statement under this section. 19

(6) In this section— 20

liability includes liability in defamation. 21

Clause 89 Amendment of s 255 (Disclosure of information) 22

(1) Section 255— 23

insert— 24

(2A) Despite subsection (1), the chief inspector or chief 25

executive may disclose to the Regulator or 26

WorkCover, under the *Workers’ Compensation* 27

and Rehabilitation Act 2003, any information the 28

chief inspector or chief executive has that relates 29

to any matter under that Act. 30

[s 90]

- (2) Section 255(2A) and (3)— 1
renumber as section 255(3) and (4). 2

Clause 90 Amendment of s 262 (Regulation-making power) 3

- (1) Section 262(2)(i), after ‘work’— 4
insert— 5
 , including requirements for holders of certificates 6
 of competency or site senior executive notices to 7
 undertake continuing professional development 8
 decided by the board of examiners 9
- (2) Section 262(2)— 10
insert— 11
- (m) the health of persons who are, will be or 12
 have been employed as workers, including 13
 about— 14
 - (i) the appointment, qualifications and 15
 removal of doctors and other health 16
 practitioners for mines; and 17
 - (ii) pre-employment and periodic medical 18
 examinations and health assessments to 19
 decide a person’s fitness for work at a 20
 mine and for the purpose of health 21
 surveillance; and 22
 - (iii) the ownership, storage, confidentiality 23
 and release of the results of medical 24
 examinations and health assessments; 25
 and 26
 - (iv) reciprocal arrangements between 27
 operations for the exchange of 28
 information or the recognition of 29
 medical examinations or health 30
 assessments. 31

Clause 91	Insertion of new pt 20, div 5	1
	Part 20—	2
	<i>insert—</i>	3
	Division 5	4
	Transitional provisions for	5
	Mines Legislation	6
	(Resources Safety)	7
	Amendment Act 2017	8
	282 Definition for division	8
	In this division—	9
	<i>amended</i> , in relation to a provision of this Act,	10
	means the provision as amended or inserted by the	11
	<i>Mines Legislation (Resources Safety) Amendment</i>	12
	<i>Act 2017.</i>	13
	283 Appointment of site senior executives during	14
	1-year transitional period	15
	(1) This section applies to the appointment of the site	16
	senior executive for a mine.	17
	(2) During the period starting on the commencement	18
	and ending 1 year after the commencement,	19
	amended section 49(4) does not apply to the	20
	appointment.	21
	(3) The chief inspector may extend the 1-year period	22
	mentioned in subsection (2) in relation to the	23
	appointment for a stated mine for a further period	24
	of not more than 1 year if satisfied there are	25
	exceptional circumstances.	26
	284 Appointment of ventilation officers for	27
	underground mines during 3-year transitional	28
	period	29
	(1) This section applies to the appointment of the	30

[s 91]

ventilation officer, or acting ventilation officer, for an underground mine.	1 2
(2) During the period starting on the commencement and ending 3 years after the commencement, amended section 54A(3) or 54B(6) does not apply to the appointment.	3 4 5 6
285 Continuation of exemptions for particular opal or gem mines for 2-year transitional period	7 8
(1) This section applies to an opal or gem mine.	9
(2) During the period starting on the commencement and ending 2 years after the commencement—	10 11
(a) pre-amended sections 37(2), 38(3) and (4) and 39(2) and (3) continue to apply in relation to the mine; and	12 13 14
(b) amended section 40(1)(b), (d) and (e)(i) does not apply to a contractor at the mine if the mine is not required to have a safety and health management system; and	15 16 17 18
(c) amended section 44(1)(b), (f) and (g)(i) does not apply to a service provider at the mine if the mine is not required to have a safety and health management system.	19 20 21 22
(3) For subsection (2)(a), pre-amended section 39(2) and (3) applies as if the reference to section 39(1)(c) were a reference to section 39(1)(c) to (f) and (h)(i).	23 24 25 26
(4) In this section—	27
<i>opal or gem mine</i> means a mine at which operations are carried out for opal, gemstones or other semiprecious minerals.	28 29 30
<i>pre-amended</i> , in relation to a provision of this Act, means the provision as it was in force immediately before the commencement.	31 32 33

Clause 92	Amendment of sch 2 (Dictionary)	1
(1)	Schedule 2, definitions <i>executive officer, officer, opal or gem mine, safety and health management system</i> and <i>supplier</i> —	2
	<i>omit.</i>	3
		4
(2)	Schedule 2—	5
	<i>insert</i> —	6
	<i>civil penalty obligation</i> , for part 14B, see section 246E.	7
		8
	<i>corresponding offence</i> , in relation to a contravention of a civil penalty obligation, for part 14B, see section 246E.	9
		10
		11
	<i>officer</i> —	12
	(a) of a corporation, means an officer within the meaning of the Corporations Act, section 9, other than a partner in a partnership; or	13
		14
		15
	(b) for part 9, division 4, see section 129A.	16
	<i>penalty notice</i> , for part 14B, see section 246I(3).	17
	<i>proposed action</i> , for part 10A, see section 187(1).	18
	<i>proposed action notice</i> , for part 10A, see section 187(2).	19
		20
	<i>proposed penalty notice</i> , for part 14B, see section 246G(2).	21
		22
	<i>relevant corporation</i> , for part 14B, see section 246E.	23
		24
	<i>safety and health management system</i> , for a mine, means a single safety and health management system that complies with section 55.	25
		26
		27
		28
	<i>service provider</i> see section 44(1).	29
	<i>site senior executive notices</i> see section 180(e).	30
	<i>supplier</i> , of plant, equipment, substances or other goods, means a person who contracts to supply	31
		32

[s 93]

	the plant, equipment, substances or other goods to an operator, contractor or service provider.	1 2
	<i>workplace</i> means a workplace to which the <i>Work Health and Safety Act 2011</i> applies.	3 4
(3)	Schedule 2, definition <i>worker</i> —	5
	<i>insert</i> —	6
	(c) a service provider or employee of a service provider.	7 8
Part 4	Amendments of other legislation	9 10
Division 1	Amendment of Coal Mining Safety and Health Regulation 2017	11 12
Clause 93	Regulation amended	13
	This division amends the <i>Coal Mining Safety and Health Regulation 2017</i> .	14 15
Clause 94	Insertion of new s 371A	16
	After section 371—	17
	<i>insert</i> —	18
	371A Civil penalties—Act, ss 267E and 267F	19
	(1) For section 267E of the Act, definition <i>civil penalty obligation</i> , the safety and health obligations and other obligations mentioned in schedule 7A are prescribed.	20 21 22 23
	(2) For section 267F(3) of the Act, the category of a civil penalty obligation is—	24 25
	(a) for an obligation mentioned in schedule 7A, part 1—category 1; or	26 27

	(b) for an obligation mentioned in schedule 7A, part 2—category 2; or	1 2
	(c) for an obligation mentioned in schedule 7A, part 3—category 3.	3 4
Clause 95	Insertion of new sch 7A	5
	After schedule 7—	6
	<i>insert—</i>	7
	Schedule 7A Civil penalties	8
	section 371A	9
	Part 1 Category 1 obligations	10
	1 the safety and health obligation under section 42(c) of the Act to develop a safety and health management system for a coal mine	11 12 13 14
	2 the safety and health obligation under section 42(c) of the Act to implement a safety and health management system for an underground mine that includes principal hazard management plans for the matters mentioned in section 149 of this regulation	15 16 17 18 19 20
	3 the safety and health obligation under section 42(c) of the Act to implement a safety and health management system for a coal mine in relation to the matters mentioned in section 202 of this regulation (relating to use of portable electrical equipment)	21 22 23 24 25 26 27
	4 the safety and health obligation under section 43(1)(b) of the Act (relating to	28 29

[s 95]

	compliance with a mine’s safety and health management system by a contractor)	1 2
5	the safety and health obligation under section 343 of this regulation (relating to the ventilation system for an underground mine)	3 4 5
6	the safety and health obligations under chapter 4, part 7, division 2, subdivision 2 or 3 of this regulation (relating to gas monitoring equipment for an underground mine)	6 7 8 9 10
Part 2	Category 2 obligations	11
1	the safety and health obligation under section 42(c) of the Act to implement a safety and health management system for a coal mine in relation to monitoring concentrations of respirable dust as required under section 89(5)(a) of this regulation	12 13 14 15 16 17
2	the safety and health obligation under section 89A(4) of this regulation (relating to notification of excessive dust levels)	18 19 20
Part 3	Category 3 obligations	21
1	the safety and health obligation under section 42(c) of the Act to implement a safety and health management system for a coal mine that includes the standard operating procedures mentioned in sections 21, 22, 37, 38, 56, 65, 68, 72, 73, 76, 78, 79, 88A, 92, 94, 95, 96, 112, 116, 117, 125, 129, 132 to 135, 138, 141 to 143, 145, 151, 169, 187, 202, 221, 224, 226, 249, 250, 252, 253,	22 23 24 25 26 27 28 29 30

	255, 294, 299, 300, 309(2), 318, 323(3), 335, 347 to 349, 352, 353 and 368 of this regulation	1 2 3
2	the safety and health obligations under section 47 of this regulation (relating to health assessments)	4 5 6
3	the obligations under section 198 of the Act, other than section 198(7) (relating to notifying accidents, incidents, deaths or diseases)	7 8 9 10
Clause 96	Amendment of sch 8 (Fees)	11
	(1) Schedule 8, part 1—	12
	<i>insert—</i>	13
2A	Application for assessment for a ventilation officer's certificate of competency	23.50
	(2) Schedule 8, part 1, items 2A and 3—	14
	<i>renumber</i> as items 3 and 4.	15
Division 2	Amendment of Mining and Quarrying Safety and Health Regulation 2017	16 17 18
Clause 97	Regulation amended	19
	This division amends the <i>Mining and Quarrying Safety and Health Regulation 2017</i> .	20 21
Clause 98	Insertion of new s 150A	22
	After section 150—	23

[s 99]

insert—

150A Civil penalties—Act, ss 246E and 246F

- (1) For section 246E of the Act, definition *civil penalty obligation*, the safety and health obligations and other obligations mentioned in schedule 5A are prescribed.
- (2) For section 246F(3) of the Act, the category of a civil penalty obligation is—
- (a) for an obligation mentioned in schedule 5A, part 1—category 1; or
 - (b) for an obligation mentioned in schedule 5A, part 2—category 2; or
 - (c) for an obligation mentioned in schedule 5A, part 3—category 3.

Clause 99 Insertion of new sch 5A

After schedule 5—

insert—

Schedule 5A Civil penalties

section 150A

Part 1 Category 1 obligations

- 1 the safety and health obligation under section 39(1)(c) of the Act to develop a safety and health management system for a mine at which more than 10 workers are employed

Part 2 Category 2 obligations

1	the safety and health obligation under section 136(2) of this regulation (relating to monitoring for exposure to hazards)	1 2 3
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Part 3 **Category 3 obligations** 4

1	the safety and health obligation under section 39(1)(c) of the Act to implement a safety and health management system for a mine that includes the procedures or standard work instructions mentioned in sections 42, 47, 55, 58, 70, 71, 72, 79, 128 and 141 of this regulation	5 6 7 8 9 10 11
2	the safety and health obligations under section 131 of this regulation (relating to health assessments)	12 13 14
3	the obligations under section 195 of the Act, other than section 195(7) (relating to notifying accidents, incidents, deaths or diseases)	15 16 17 18