

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.

Legislative Assembly Chamber, The Clerk of the Parliament.
Brisbane,

9 November 2018

In the name and on behalf of the Queen, I assent to this Bill.

L. Holmes

Government House,

Brisbane,

9 November 2018



Queensland

No. 28 of 2018

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



Queensland

Mines Legislation (Resources Safety) Amendment Bill 2018

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2018

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—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Mines Legislation (Resources Safety) Amendment Act 2018*.

2 Commencement

Sections 17 and 47, to the extent it inserts new sections 308 and 309, commence on a day to be fixed by proclamation.

Part 2 Amendment of Coal Mining Safety and Health Act 1999

3 Act amended

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

4 Amendment of s 7 (How objects are to be achieved)

Section 7(k), ‘of coal mine workers’—

omit, insert—

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

5 Amendment of s 33 (Obligations for safety and health)

Section 33—

insert—

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

6 Replacement of s 34 (Discharge of obligations)

Section 34—

omit, insert—

34 Discharge of obligations

A person on whom a safety and health obligation is imposed must discharge the obligation.

Maximum penalty—

- (a) if the contravention caused multiple deaths—
- (i) for an offence committed by a corporation—30,000 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—6,000 penalty units or 3 years imprisonment; or
 - (iii) otherwise—3,000 penalty units or 3 years imprisonment; or
- (b) if the contravention caused death or grievous bodily harm—
- (i) for an offence committed by a corporation—15,000 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—3,000 penalty units or 2 years imprisonment; or
 - (iii) otherwise—1,500 penalty units or 2 years imprisonment; or
- (c) if the contravention caused bodily harm—
- (i) for an offence committed by a corporation—7,500 penalty units; or

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- (ii) for an offence committed by an officer of a corporation—1,500 penalty units or 1 year’s imprisonment; or
- (iii) otherwise—750 penalty units or 1 year’s imprisonment; or
- (d) if the contravention involved exposure to a substance that is likely to cause death or grievous bodily harm—
 - (i) for an offence committed by a corporation—7,500 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—1,500 penalty units or 1 year’s imprisonment; or
 - (iii) otherwise—750 penalty units or 1 year’s imprisonment; or
- (e) otherwise—
 - (i) for an offence committed by a corporation—5,000 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—1,000 penalty units or 6 months imprisonment; or
 - (iii) otherwise—500 penalty units or 6 months imprisonment.

7 Amendment of s 40 (Obligations of holders)

- (1) Section 40(1), from ‘and the coal mine’—

omit, insert—

for a coal mine proposes to appoint under section 53 another person as coal mine operator for the mine.

- (2) Section 40(2)(a)—

omit, insert—

- (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—
 - (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.

8 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);

[s 8]

- (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—
 - (i) identify risks arising in relation to any service to be provided by the service provider at the mine; and
 - (ii) comply with section 47(1)(f);
 - (cc) to review safety and health management plans of contractors and service providers within the meaning of section 43 or 47 and, if necessary, require changes to be made to those plans to enable them to be integrated with the mine's safety and health management system;
- (3) Section 42(e)—
omit, insert—
- (e) to ensure no work is undertaken by a coal mine worker at the mine until the worker—
 - (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
 - (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
 - (iii) has received training so the worker is competent to perform the worker's duties;
- (4) Section 42(f)—
insert—

(vi) adequate supervision and monitoring of contractors and service providers at the mine.

- (5) Section 42(ca) to (f)—
renumber as section 42(d) to (i).

9 Replacement of s 43 (Obligations of contractors)

Section 43—

omit, insert—

43 Obligations of contractors

- (1) A contractor at a coal mine has the following obligations—
- (a) to ensure the contractor complies with this Act to the extent it relates to the work undertaken by the contractor;
 - (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;
 - (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;
 - (d) to ensure no work is undertaken by the contractor until the contractor—
 - (i) has given the site senior executive for the mine a safety and health management plan; and
 - (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;

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- (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—
 - (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
 - (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.
- (2) In this section—

safety and health management plan, of a contractor, means a plan that—

 - (a) identifies the work to be undertaken by the contractor; and
 - (b) states how the contractor intends to comply with the contractor’s obligations under this section.

10 Amendment of s 44 (Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at coal mines)

- (1) Section 44(4), after paragraph (a)—
insert—

- (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—
 - (i) the nature of the hazard or defect and its significance; and

-
- (ii) any modifications or controls of which the designer, manufacturer, importer or supplier is aware that have been developed to eliminate or correct the hazard or defect or manage the risk; and
 - (iii) the name of each coal mine operator, contractor or service provider the designer, manufacturer, importer or supplier has supplied the plant to; and
 - (iv) the steps taken to notify the coal mine operators, contractors and service providers about the matters mentioned in subparagraphs (i) and (ii);
- (2) Section 44(4)(b), example, ‘(4)(b)’—
omit, insert—
(4)(c)
- (3) Section 44(4)(aa) and (b)—
renumber as section 44(4)(b) and (c).
- (4) Section 44(6), after ‘a contractor’—
insert—
or service provider
- (5) Section 44(6), ‘or contractor’—
omit, insert—
, contractor or service provider

11 Amendment of s 46 (Obligations of manufacturers, importers and suppliers of substances for use at coal mines)

- (1) Section 46(2), after paragraph (a)—
insert—

[s 11]

- (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—
 - (i) the nature of the hazard or defect and its significance; and
 - (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
 - (iii) the name of each coal mine operator, contractor or service provider the manufacturer, importer or supplier has supplied the substance to; and
 - (iv) the steps taken to notify the coal mine operators, contractors and service providers about the matters mentioned in subparagraphs (i) and (ii);
- (2) Section 46(2)(b), example, ‘(2)(b)’—
omit, insert—
 - (2)(c)
- (3) Section 46(2)(aa) and (b)—
renumber as section 46(2)(b) and (c).
- (4) Section 46—
insert—
 - (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—

- (a) the nature of the hazard or defect and its significance; and
- (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.

12 Replacement of s 47 (Obligation of provider of services at coal mines)

Section 47—

omit, insert—

47 Obligations of service providers

- (1) A person who provides a service (a *service provider*) at a coal mine has the following obligations—
 - (a) to ensure the service provider complies with this Act to the extent it relates to the service provided;
 - (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;
 - (c) to ensure the safety and health of coal mine workers or other persons is not adversely affected by the service provided;
 - (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;
 - (e) to ensure the fitness for use of plant at the coal mine is not adversely affected by the service provided;

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- (f) to ensure the service is not provided until the service provider—
 - (i) has given the site senior executive for the mine a safety and health management plan; and
 - (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;
- (g) to ensure the service is not provided until the service provider and each coal mine worker engaged by the service provider—
 - (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
 - (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.
- (2) In this section—

safety and health management plan, of a service provider, means a plan that—

 - (a) identifies the service to be provided by the service provider; and
 - (b) states how the service provider intends to comply with the service provider’s obligations under this section.

13 Insertion of new pt 3, div 3A

Part 3—

insert—

Division 3A Obligations of officers of corporations

47A Obligation of officers of corporations

- (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.
- (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.
- (3) In this section, *due diligence* includes taking reasonable steps—
 - (a) to acquire and keep up-to-date knowledge of mine safety and health matters; and
 - (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
 - (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
 - (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

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- (e) to ensure the corporation has, and implements, processes for complying with any obligation of the corporation under this Act; and
- (f) to verify the provision and use of the resources and processes mentioned in paragraphs (c) to (e).

Example for paragraph (f)—

If the corporation is a coal mine operator, verifying the provision and use of the resources and processes to ensure the operator complies with the requirement under section 41(1)(f) (including, for example, having regard to each report given by the operator in relation to an audit of the effectiveness and implementation of the mine's safety and health management system).

- (4) In this section—

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 coal mine.

14 Amendment of s 48 (Defences for div 2 or 3)

Section 48, '2 or 3'—

omit, insert—

2, 3 or 3A

15 Amendment of s 54 (Appointment of site senior executive)

- (1) Section 54—

insert—

- (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.

(2) Section 54(3A) and (4)—

renumber as section 54(4) and (5).

16 Amendment of s 55 (Management structure for safe operations at coal mines)

Section 55(2)—

insert—

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

17 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 another person as the ventilation officer for the mine.

Maximum penalty—200 penalty units.

- (3) However, the underground mine manager must not appoint a person under subsection (2) unless the person holds a ventilation officer's certificate of competency.

Maximum penalty—200 penalty units.

- (4) Subject to the direction and control of the underground mine manager, the ventilation officer for the mine is responsible for—

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- (a) the implementation of the mine's ventilation system; and
 - (b) the establishment of effective standards of ventilation for the mine.
- (5) The underground mine manager must not appoint a person as ventilation officer at more than 1 mine at the same time unless the chief inspector gives the manager notice that the chief inspector is satisfied the person can effectively carry out the duties of the ventilation officer at the mines.
- Maximum penalty for subsection (5)—200 penalty units.
- (6) The underground mine manager may appoint more than 1 person as the ventilation officer under this section to assume the duties of the officer at different times.

61A Absence of ventilation officer

- (1) This section applies if—
- (a) a ventilation officer appointed under section 61 for an underground mine is temporarily absent from duty; and
 - (b) there is no other person appointed under that section who can assume the ventilation officer's duties during the absence.
- (2) The underground mine manager may assume the duties of the ventilation officer during the absence if—
- (a) the absence is for not longer than 7 days; and
 - (b) the manager holds a ventilation officer's certificate of competency.
- (3) If the underground mine manager does not assume the duties of the ventilation officer under

subsection (2), the manager must appoint another person to act as the ventilation officer during the absence.

Maximum penalty—200 penalty units.

- (4) However, the underground mine manager must not appoint a person under subsection (3) unless the person holds a ventilation officer's certificate of competency.

Maximum penalty—200 penalty units.

18 Amendment of s 62 (Safety and health management system)

- (1) Section 62(1) and (2)—

omit, insert—

- (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.
- (2) The safety and health management system must be a single, auditable documented system that—
- (a) forms part of an overall management system; and
- (b) includes organisational structure, planning activities, responsibilities, practices, procedures and resources for developing, implementing, maintaining and reviewing a safety and health policy.
- (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.
- (2B) The safety and health management system for a

[s 19]

coal mine must be in place before coal mining operations start at the mine.

- (2) Section 62(2A) to (5)—
renumber as section 62(3) to (7).

19 Amendment of s 62A (Additional requirement for coal mining operation for incidental coal seam gas)

- (1) Section 62A(2), ‘single’—
omit.
- (2) Section 62A(3), ‘62(3)’—
omit, insert—
62(5)

20 Amendment of s 73C (Commissioner’s functions)

Section 73C(a), ‘health and safety’—
omit, insert—
safety and health

21 Amendment of s 78 (Membership of committee)

Section 78(1), ‘9’—
omit, insert—
10

22 Amendment of s 80 (Appointment of members)

Section 80(3)—
omit, insert—

(3) The chief inspector is to be a member of the committee.

(3A) The Minister must appoint 2 other inspectors to be

members of the committee.

23 Amendment of s 133 (Entry to places)

(1) Section 133(1)(e)—

omit, insert—

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

(2) Section 133(2), after ‘For’—

insert—

subsection (1)(a), for

(3) Section 133(3)—

omit, insert—

(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.

(4) Section 133(5)—

omit.

24 Insertion of new s 138A

Part 9, division 4, subdivision 3—

insert—

138A 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 other than—

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

[s 25]

- (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; or
- (d) if the place is a coal mine.

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

Section 181(1), ‘health and safety’—

omit, insert—

safety and health

26 Amendment of s 185 (Functions of board of examiners)

(1) Section 185—

insert—

(da) 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 76, required to perform the duties of a site senior executive for a coal mine;

(2) Section 185(da) and (e)—

renumber as section 185(e) and (f).

27 Amendment of s 186 (Membership and conduct of board proceedings)

(1) Section 186—

insert—

(3A) The following persons are members of the board of examiners—

- (a) the chief inspector;
- (b) the chief inspector of mines under the *Mining and Quarrying Safety and Health Act 1999*.

(2) Section 186(4)—

omit, insert—

(4) In addition to the members mentioned in subsection (3A)—

- (a) at least 1 member must be an inspector who holds a first class certificate of competency for an underground coal mine; and
- (b) at least 1 member must be an inspector who holds a first class certificate of competency for an underground mine under the *Mining and Quarrying Safety and Health Act 1999*.

(3) Section 186(7), after ‘member’—

insert—

, other than a member mentioned in subsection (3A),

28 Amendment of s 188 (Appointment of board of examiners)

Section 188(1), after ‘examiners’—

insert—

, other than the members mentioned in section 186(3A),

[s 29]

29 Insertion of new s 193A

Part 10, division 3—

insert—

193A 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, cancelled or surrendered under this Act, details of the suspension, cancellation or surrender;
 - (b) for a notice mentioned in subsection (1)(c)—the name and contact details of the person to whom the notice was given;
 - (c) any other information prescribed by regulation.
- (3) The board of examiners may disclose information in the register, other than the contact details of an individual, to any person or agency.
- (4) In this section—

mutual recognition Act means—

- (a) the *Mutual Recognition Act 1992* (Cwlth);
or
- (b) the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth).

30 Insertion of new s 194A

After section 194—

insert—

194A Board of examiners may consider previous suspension, cancellation or surrender of certificate of competency or site senior executive notice

- (1) This section applies if—
 - (a) a person has applied for the grant of a certificate of competency or site senior executive notice; and
 - (b) a certificate of competency or site senior executive notice previously held by the person was suspended, cancelled or surrendered under this Act.
- (2) The board of examiners may have regard to the previous suspension, cancellation or surrender in deciding the application.
- (3) Subsection (2) does not limit the matters to which the board of examiners may have regard in deciding the application.

31 Amendment of s 195 (Obtaining certificates of competency by fraud)

- (1) Section 195, heading, after ‘competency’—

insert—

or site senior executive notices

[s 32]

(2) Section 195, after ‘certificate of competency’—

insert—

or site senior executive notice

(3) Section 195—

insert—

(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—

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

(b) for a decision relating to a site senior executive notice—the coal mine operator for each coal mine at which the holder works.

32 Amendment of s 196 (Return of certificate of competency)

(1) Section 196, after ‘certificate of competency’—

insert—

or site senior executive notice

(2) Section 196, after ‘the certificate’—

insert—

or notice

(3) Section 196—

insert—

(c) the chief executive suspends or cancels the certificate or notice under part 10A; or

- (d) the holder surrenders the certificate or notice.

33 Insertion of new s 196A

After section 196—

insert—

196A Effect on particular appointments of suspension, cancellation or surrender of certificate of competency or site senior executive notice

- (1) This section applies if—
- (a) a certificate of competency or site senior executive notice held by a person is suspended, cancelled or surrendered under this Act; and
 - (b) immediately before the suspension, cancellation or surrender 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, cancellation or surrender of the person's certificate of competency or site senior executive notice.

34 Insertion of new pt 10A

After part 10—

insert—

Part 10A Suspension and cancellation of certificates of competency and site senior executive notices by chief executive

197A Grounds for suspension or cancellation

- (1) Each of the following is a ground for suspending or cancelling a person's certificate of competency under this part—
 - (a) the person has contravened a safety and health obligation;
 - (b) the person has committed an offence against a law of Queensland or another State (a *corresponding law*) relating to mining safety;
 - (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.
- (2) Each of the following is a ground for suspending or cancelling a person's site senior executive notice under this part—
 - (a) the person has contravened a safety and health obligation;
 - (b) the person has committed an offence against a corresponding law.

197B Notice of proposed action

- (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*).

- (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—
 - (a) the proposed action;
 - (b) the ground for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the ground;
 - (d) if the proposed action is to suspend the certificate of competency or site senior executive notice—the proposed period of the suspension;
 - (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.

197C Submission against taking of proposed action

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 taken.

197D Decision to take proposed action

- (1) This section applies if—
 - (a) the period stated in the proposed action notice under section 197B(2)(e) has ended; and

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- (b) the chief executive has considered any written submission made by the person under section 197C; and
 - (c) the chief executive still considers a ground exists to take the proposed action.
- (2) The chief executive may decide—
 - (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
 - (b) if the proposed action was to cancel the certificate of competency or site senior executive notice—to cancel the certificate or notice or suspend it for a period.
- (3) The chief executive must give the person notice of the decision.
- (4) The notice must state each of the following matters—
 - (a) the chief executive’s decision;
 - (b) the reasons for the decision;
 - (c) that the person may appeal against the decision within 28 days;
 - (d) how the person may appeal;
 - (e) that the person may apply for a stay of the decision if the person appeals against it.
- (5) The decision takes effect on the day the notice is given to the person.
- (6) The chief executive must give notice of the decision to—
 - (a) the following persons, to the extent the persons are known to the chief executive—

-
- (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.

35 Amendment of s 198 (Notice of accidents, incidents, deaths or diseases)

- (1) Section 198(6), from ‘disease prescribed’ to ‘this section’—

omit, insert—

reportable disease

- (2) Section 198—

insert—

- (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.

Maximum penalty—40 penalty units.

- (8) In this section—

reportable disease means a disease prescribed by regulation to be a disease that must be reported under this section.

36 Amendment of pt 14, div 1, hdg (Appeals against particular decisions of Minister or board of examiners)

Part 14, division 1, heading, after ‘Minister’—

insert—

, chief executive

[s 37]

37 Insertion of new s 236A

After section 236—

insert—

236A 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 197D;
- (b) a corporation on which a civil penalty is imposed—section 267I.

38 Amendment of s 238 (How to start appeal)

(1) Section 238(1)(b)—

insert—

(ia) if the appeal is against the chief executive's decision—the chief executive; or

(2) Section 238(1)(b)(ia) and (ii)—

renumber as section 238(1)(b)(ii) and (iii).

39 Amendment of s 240 (Hearing procedures)

(1) Section 240—

insert—

(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.

-
- (2) Section 240(4), definition *original decision-maker*, after ‘Minister’—

insert—

, chief executive

- (3) Section 240(2A) to (4)—
renumber as section 240(3) to (5).

40 Amendment of s 252 (Evidentiary aids)

Section 252(1)(b), after ‘certificate,’—

insert—

notice,

41 Amendment of s 258 (Court may order suspension or cancellation of certificate)

- (1) Section 258, heading, after ‘certificate’—

insert—

or notice

- (2) Section 258, after ‘certificate of competency’—

insert—

or site senior executive notice

- (3) Section 258—

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—

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- (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.

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.

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

Section 262—

omit.

44 Insertion of new pt 15B

After part 15A—

insert—

Part 15B Civil penalties

267E Definitions for part

In this part—

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

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.

penalty notice see section 267I(3).

proposed penalty notice see section 267G(2).

relevant corporation means a coal mine operator or contractor that is a corporation.

267FLiability for civil penalties

- (1) A relevant corporation is liable to pay the State a civil penalty if—
 - (a) the relevant corporation contravenes a civil penalty obligation; or
 - (b) a representative of the relevant corporation contravenes a civil penalty obligation.
- (2) A civil penalty may be imposed on the relevant corporation by a penalty notice given to the corporation by the chief executive.
- (3) The amount of the penalty is—
 - (a) if the civil penalty obligation is a category 1 obligation—1,000 penalty units; or
 - (b) if the civil penalty obligation is a category 2 obligation—750 penalty units; or
 - (c) if the civil penalty obligation is a category 3 obligation—500 penalty units.
- (4) For subsection (3), the category of a civil penalty obligation is the category prescribed by regulation

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for the obligation.

(5) In this section—

representative, of a relevant corporation, means an officer, employee or agent of the corporation.

267G Giving of notice proposing imposition of civil penalty

- (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.
- (2) The chief executive may give the corporation a notice (a *proposed penalty notice*) proposing to impose a civil penalty on the corporation on the grounds of the contravention.
- (3) The proposed penalty notice must state each of the following matters—
 - (a) that the chief executive proposes to impose a civil penalty on the corporation;
 - (b) the grounds for imposing the penalty;
 - (c) the facts and circumstances forming the basis for the grounds;
 - (d) that the corporation may make a written submission to the chief executive, within a stated period of at least 14 days after the corporation is given the notice, to show why the civil penalty should not be imposed;
 - (e) the way in which the submission may be made.

267H Submission against proposed imposition of civil penalty

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.

267I Giving of penalty notice

- (1) This section applies if—
 - (a) the period stated in the proposed penalty notice under section 267G(3)(d) has ended; and
 - (b) the chief executive has considered any submission made under section 267H; and
 - (c) the chief executive is satisfied—
 - (i) the civil penalty obligation mentioned in the proposed penalty notice has been contravened; and
 - (ii) the relevant corporation is liable to a civil penalty on the grounds of the contravention.
- (2) The chief executive may decide to impose a civil penalty on the corporation on the grounds of the contravention.
- (3) If the chief executive makes a decision under subsection (2), the chief executive must give the corporation a notice (a **penalty notice**) stating each of the following matters—
 - (a) the chief executive has decided to impose a civil penalty on the corporation;
 - (b) the reasons for the decision;
 - (c) the amount of the penalty and the day by which it must be paid;
 - (d) that the corporation may appeal to an Industrial Magistrates Court against the

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decision within 28 days after the corporation is given the penalty notice;

- (e) how to appeal.
- (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.
- (5) The State may recover the penalty from the corporation as a debt.

267J Civil penalty can not be imposed after criminal proceeding

- (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.
- (2) Subsection (3) applies if—
 - (a) the chief executive has given a relevant corporation a proposed penalty notice in relation to a contravention of a civil penalty obligation; and
 - (b) before the chief executive makes a decision under section 267I, a criminal proceeding is started against the corporation for a corresponding offence.
- (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.
- (4) This section applies despite any other provision of this part.

267K Criminal proceeding after civil penalty imposed

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.

45 Amendment of s 275AC (Public statements)

- (1) Section 275AC(1)(b), ‘serious accidents’—

omit, insert—

accidents or high potential incidents

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

omit, insert—

, authorised officers or the chief executive

- (3) Section 275AC(1)(d)—

omit, insert—

(d) the cancellation or suspension of a certificate of competency or site senior executive notice under section 195(2) or part 10A;

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

- (4) Section 275AC—

insert—

(4) Despite section 276(2), no liability is incurred by the State for the issue of, or for anything done for the purpose of issuing, a public statement under this section in good faith.

(5) No liability is incurred by a person for publishing, in good faith, information that has been included

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in a public statement under this section.

(6) In this section—

liability includes liability in defamation.

46 Amendment of s 275A (Disclosure of information)

(1) Section 275A—

insert—

(2A) Despite subsection (1), the chief inspector or chief executive may disclose to the Regulator or WorkCover, under the *Workers' Compensation and Rehabilitation Act 2003*, any information the chief inspector or chief executive has that relates to any matter under that Act.

(2) Section 275A(2A) and (3)—

renumber as section 275A(3) and (4).

47 Insertion of new pt 20, div 7

Part 20—

insert—

Division 7 Transitional provisions for Mines Legislation (Resources Safety) Amendment Act 2018

307 Definitions for division

In this division—

amended, in relation to a provision of this Act, means the provision as amended or inserted by the *Mines Legislation (Resources Safety) Amendment Act 2018*.

transitional period means the period starting on the commencement of sections 308 and 309 and ending 3 years after the commencement of those sections.

308 Appointment of, and acting as, ventilation officers for underground mines during transitional period

- (1) Amended section 61(3) or 61A(4) does not apply to the appointment of a ventilation officer, or acting ventilation officer, for an underground mine during the transitional period.
- (2) Amended section 61A(2)(b) does not apply to an underground mine manager for an underground mine assuming the duties of the ventilation officer for the mine during the transitional period.

309 Ventilation officers holding office when transitional period ends

- (1) This section applies to a person who, when the transitional period ends, is appointed as the ventilation officer, or acting ventilation officer, for an underground mine.
- (2) The person's appointment ends immediately after the transitional period ends unless the person holds a ventilation officer's certificate of competency.
- (3) This section applies despite section 61.

310 Existing site senior executive notices

- (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

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commencement.

- (2) The notice is taken to be a site senior executive notice.

48 Amendment of sch 2 (Subject matter for regulations)

Schedule 2, part 2, item 29—

omit, insert—

- 29 The health of persons who are, will be or have been employed at a coal mine, including about—
- (a) the appointment, qualifications and removal of doctors and other health practitioners for mines; and
 - (b) pre-employment and periodic medical examinations and health assessments to decide a person's fitness for work at a coal mine and for the purpose of health surveillance; and
 - (c) the ownership, storage, confidentiality and release of the results of medical examinations and health assessments; and
 - (d) reciprocal arrangements between coal mining operations for the exchange of information or the recognition of medical examinations or health assessments.
- 29A Requirements for holders of certificates of competency or site senior executive notices to undertake continuing professional development decided by the board of examiners.

49 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *executive officer*, *officer*, *safety and health management system*, second mention, and *supplier*—
omit.
- (2) Schedule 3—
insert—

civil penalty obligation, for part 15B, see section 267E.

corresponding offence, in relation to a contravention of a civil penalty obligation, for part 15B, see section 267E.

officer—

- (a) of a corporation, means an officer within the meaning of the Corporations Act, section 9, other than a partner in a partnership; or
- (b) for part 9, division 4, see section 132A.

penalty notice, for part 15B, see section 267I(3).

proposed action, for part 10A, see section 197B(1).

proposed action notice, for part 10A, see section 197B(2).

proposed penalty notice, for part 15B, see section 267G(2).

relevant corporation, for part 15B, see section 267E.

service provider see section 47(1).

site senior executive notices see section 185(e).

supplier, of plant, equipment, substances or other goods, means a person who contracts to supply the plant, equipment, substances or other goods to a coal mine operator, contractor or service provider.

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workplace means a workplace to which the *Work Health and Safety Act 2011* applies.

- (3) Schedule 3, definition *coal mine worker*—

insert—

(c) a service provider or employee of a service provider.

- (4) Schedule 3, definition *safety and health management system*, first mention, after ‘means a’—

insert—

single

Part 3 **Amendment of Mining and Quarrying Safety and Health Act 1999**

50 **Act amended**

This part amends the *Mining and Quarrying Safety and Health Act 1999*.

51 **Amendment of s 7 (How objects are to be achieved)**

Section 7—

insert—

(j) providing for the health assessment and health surveillance of persons who are, will be or have been workers.

52 **Amendment of s 30 (Obligations for safety and health)**

Section 30—

insert—

(3) If a corporation has an obligation under this Act,

an officer of the corporation has obligations under division 3A (also *safety and health obligations*).

53 Replacement of s 31 (Discharge of obligations)

Section 31—

omit, insert—

31 Discharge of obligations

A person on whom a safety and health obligation is imposed must discharge the obligation.

Maximum penalty—

- (a) if the contravention caused multiple deaths—
 - (i) for an offence committed by a corporation—30,000 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—6,000 penalty units or 3 years imprisonment; or
 - (iii) otherwise—3,000 penalty units or 3 years imprisonment; or
- (b) if the contravention caused death or grievous bodily harm—
 - (i) for an offence committed by a corporation—15,000 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—3,000 penalty units or 2 years imprisonment; or
 - (iii) otherwise—1,500 penalty units or 2 years imprisonment; or
- (c) if the contravention caused bodily harm—
 - (i) for an offence committed by a corporation—7,500 penalty units; or

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- (ii) for an offence committed by an officer of a corporation—1,500 penalty units or 1 year’s imprisonment; or
- (iii) otherwise—750 penalty units or 1 year’s imprisonment; or
- (d) if the contravention involved exposure to a substance that is likely to cause death or grievous bodily harm—
 - (i) for an offence committed by a corporation—7,500 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—1,500 penalty units or 1 year’s imprisonment; or
 - (iii) otherwise—750 penalty units or 1 year’s imprisonment; or
- (e) otherwise—
 - (i) for an offence committed by a corporation—5,000 penalty units; or
 - (ii) for an offence committed by an officer of a corporation—1,000 penalty units or 6 months imprisonment; or
 - (iii) otherwise—500 penalty units or 6 months imprisonment.

54 Amendment of s 37 (Obligations of holders)

- (1) Section 37(1), from ‘and the operator’—

omit, insert—

proposes to appoint under section 48 another person as the operator for a mine.

- (2) Section 37(2)(a)(i) and (b), from ‘a person’ to ‘act as operator’—

omit, insert—

the proposed operator

55 Amendment of s 38 (Obligations of operators)

Section 38(3), ‘10 workers’—

omit, insert—

4 workers

56 Amendment of s 39 (Obligations of site senior executive for mine)

(1) Section 39(1)(b), from ‘by someone’ to ‘workers’—

omit.

(2) Section 39(1)(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 40(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 system, required by the service provider to—

[s 56]

- (i) identify risks arising in relation to any service to be provided by the service provider at the mine; and
 - (ii) comply with section 44(1)(f);
 - (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 with the mine's safety and health management system;
- (3) Section 39(1)(e)—
omit, insert—
- (e) to ensure no work is undertaken by a worker at the mine until the worker—
 - (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
 - (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
 - (iii) has received training so the worker is competent to perform the worker's duties;
- (4) Section 39(1)(f)—
insert—
- (vi) adequate supervision and monitoring of contractors and service providers at the mine.
- (5) Section 39(1)(ca) to (f)—
renumber as section 39(1)(d) to (i).

(6) Section 39(2)—

omit, insert—

(2) Subsection (1)(c) to (f) and (h)(i) does not apply to a site senior executive of a mine that is an opal or gem mine, if no more than 4 workers are employed at the mine.

(7) Section 39(3), after '(1)(c)'—

insert—

to (f) and (h)(i)

57 Replacement of s 40 (Obligations of contractors)

Section 40—

omit, insert—

40 Obligations of contractors

(1) A contractor at a mine has the following obligations—

- (a) to ensure the contractor complies with this Act to the extent it relates to the work undertaken by the contractor;
- (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;
- (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;
- (d) to ensure no work is undertaken by the contractor until the contractor—
 - (i) has given the site senior executive for the mine a safety and health management plan; and

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- (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;
- (e) to ensure no work is undertaken by the contractor until the contractor and each worker engaged by the contractor—
 - (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
 - (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.
- (2) Subsection (1)(b), (d) and (e)(i) does not apply if the mine is not required to have a safety and health management system.
- (3) In this section—

safety and health management plan, of a contractor, means a plan that—

 - (a) identifies the work to be undertaken by the contractor; and
 - (b) states how the contractor intends to comply with the contractor's obligations under this section.

58 Amendment of s 41 (Obligations of designers, manufacturers, importers and suppliers of plant etc. for use at mines)

- (1) Section 41(4), after paragraph (a)—
insert—

-
- (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—
- (i) the nature of the hazard or defect and its significance; and
 - (ii) any modifications or controls of which the designer, manufacturer, importer or supplier is aware that have been developed to eliminate or correct the hazard or defect or manage the risk; and
 - (iii) the name of each operator, contractor or service provider the designer, manufacturer, importer or supplier has supplied the plant to; and
 - (iv) the steps taken to notify the operators, contractors and service providers about the matters mentioned in subparagraphs (i) and (ii);
- (2) Section 41(4)(b), example, ‘(4)(b)’—
omit, insert—
- (4)(c)
- (3) Section 41(4)(aa) and (b)—
renumber as section 41(4)(b) and (c).

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

- (1) Section 43(2), after paragraph (a)—
insert—
- (aa) if the manufacturer, importer or supplier becomes aware of a hazard or defect

[s 59]

associated with the substance that may create an unacceptable level of risk to users of the substance, to inform the chief inspector of—

- (i) the nature of the hazard or defect and its significance; and
- (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
- (iii) the name of each operator, contractor or service provider the manufacturer, importer or supplier has supplied the substance to; and
- (iv) the steps taken to notify the operators, contractors and service providers about the matters mentioned in subparagraphs (i) and (ii);

(2) Section 43(2)(b), example, ‘(2)(b)’—

omit, insert—

(2)(c)

(3) Section 43(2)(aa) and (b)—

renumber as section 43(2)(b) and (c).

(4) Section 43—

insert—

- (4) If a supplier of a substance for use at a 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 operator, contractor or service provider to whom the supplier has supplied the substance of—

- (a) the nature of the hazard or defect and its significance; and
- (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.

60 Replacement of s 44 (Obligation of provider of services at mines)

Section 44—

omit, insert—

44 Obligations of service providers

- (1) A person who provides a service (a *service provider*) at a mine has the following obligations—
 - (a) to ensure the service provider complies with this Act to the extent it relates to the service provided;
 - (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;
 - (c) to ensure the safety and health of workers or other persons is not adversely affected by the service provided;
 - (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;
 - (e) to ensure the fitness for use of plant at the mine is not adversely affected by the service provided;
 - (f) to ensure the service is not provided until the service provider—

[s 60]

- (i) has identified the risks arising in relation to any service to be provided by the service provider at the mine; and
 - (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
 - (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;
- (g) to ensure the service is not provided until the service provider and each worker engaged by the service provider—
- (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
 - (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.
- (2) Subsection (1)(b), (f)(ii) and (iii) and (g)(i) does not apply if the mine is not required to have a safety and health management system.
- (3) In this section—
- safety and health management plan***, of a service provider, means a plan that—

- (a) identifies the service to be provided by the service provider; and
- (b) states how the service provider intends to comply with the service provider's obligations under this section.

61 Insertion of new pt 3, div 3A

Part 3—

insert—

Division 3A Obligations of officers of corporations

44A Obligation of officers of corporations

- (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.
- (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.
- (3) In this section, *due diligence* includes taking reasonable steps—
 - (a) to acquire and keep up-to-date knowledge of mine safety and health matters; and
 - (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
 - (c) to ensure the corporation has available for use, and uses, appropriate resources and

[s 62]

processes to eliminate or minimise risks to safety and health from work carried out as part of operations; and

- (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
- (e) to ensure the corporation has, and implements, processes for complying with any obligation of the corporation under this Act; and
- (f) to verify the provision and use of the resources and processes mentioned in paragraphs (c) to (e).

Example for paragraph (f)—

If the corporation is the operator for a mine, verifying the provision and use of the resources and processes to ensure the operator complies with the requirement under section 38(1)(e) (including, for example, having regard to each report given by the operator in relation to an audit of the effectiveness and implementation of the mine's safety and health management system).

- (4) In this section—

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.

62 Amendment of s 45 (Defences for div 2 or 3)

Section 45, '2 or 3'—

omit, insert—

2, 3 or 3A

63 Amendment of s 49 (Appointment of site senior executive)

(1) Section 49—

insert—

(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.

Maximum penalty—500 penalty units.

(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.

(2) Section 49(3A) to (4)—

renumber as section 49(4) to (6).

64 Amendment of s 50 (Management structure for safe operations at mines)

Section 50(2)—

insert—

(ca) state the name of the person who is responsible for establishing and implementing a system for managing contractors and service providers at the mine; and

65 Insertion of new ss 54A and 54B

Part 4, division 2—

insert—

54A Appointment of ventilation officer

(1) This section applies to an underground mine.

[s 65]

- (2) The site senior executive for the mine must appoint a person as the ventilation officer for the mine.

Maximum penalty—200 penalty units.

- (3) The site senior executive must not appoint a person as the ventilation officer for the mine unless—

(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

(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.

Maximum penalty—200 penalty units.

- (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.

- (5) 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 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.

Maximum penalty for subsection (6)—200 penalty units.

54B Absence of ventilation officer

- (1) This section applies if the ventilation officer appointed under section 54A for an underground mine is temporarily absent from duty.
- (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.
- (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.
- (4) An inspector may, by notice—
 - (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 mine manager and the ventilation officer; and
 - (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.

[s 66]

- (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.

Maximum penalty—200 penalty units.

- (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.

Maximum penalty—200 penalty units.

66 Amendment of s 55 (Safety and health management system)

- (1) Section 55(1) and (2)—

omit, insert—

- (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.
- (2) The safety and health management system must be a single, auditable documented system that—
- (a) forms part of an overall management system; and
- (b) includes organisational structure, planning activities, responsibilities, practices, procedures and resources for developing, implementing, maintaining and reviewing a safety and health policy.
- (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.

(2B) The safety and health management system for a mine must be in place before operations start at the mine.

(2) Section 55(2A) to (3)—
renumber as section 55(3) to (5).

67 Amendment of s 69 (Membership of committee)

Section 69(1), ‘9’—

omit, insert—

10

68 Amendment of s 71 (Appointment of members)

(1) Section 71, heading, after ‘members’—

insert—

—persons from panels

(2) Section 71(4)—

omit.

(3) Section 71(5), after ‘operations’—

insert—

or the Minister otherwise considers the person appropriate to be a member of the committee

(4) Section 71(8), ‘who are not inspectors’—

omit, insert—

mentioned in this section

69 Insertion of new s 71A

After section 71—

[s 70]

insert—

71A Appointment of members—inspectors

- (1) The chief inspector is a member of the committee.
- (2) The Minister must appoint 2 other inspectors to be members of the committee.

70 Amendment of s 130 (Entry to places)

- (1) Section 130(1)(e)—

omit, insert—

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

- (2) Section 130(2), after ‘For’—

insert—

subsection (1)(a), for

- (3) Section 130(3)—

omit, insert—

- (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.

- (4) Section 130(5)—

omit.

71 Insertion of new s 135A

Part 9, division 4, subdivision 3—

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 other than—

- (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; or
- (d) if the place is a mine.

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.

73 **Insertion of new s 181A**

After section 181—

insert—

[s 74]

181A Board of examiners may consider previous suspension, cancellation or surrender of certificate of competency or site senior executive notice

- (1) This section applies if—
 - (a) a person has applied for the grant of a certificate of competency or site senior executive notice; and
 - (b) a certificate of competency or site senior executive notice previously held by the person was suspended, cancelled or surrendered under this Act.
- (2) The board of examiners may have regard to the previous suspension, cancellation or surrender in deciding the application.
- (3) Subsection (2) does not limit the matters to which the board of examiners may have regard in deciding the application.

74 Amendment of s 182 (Obtaining certificates of competency by fraud)

- (1) Section 182, heading, after ‘competency’—

insert—

or site senior executive notices
- (2) Section 182, after ‘certificate of competency’—

insert—

or site senior executive notice
- (3) Section 182—

insert—

 - (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—

- (a) for a decision relating to a certificate of competency—the site senior executive for each mine at which the holder works;
- (b) for a decision relating to a site senior executive notice—the operator for each mine at which the holder works.

75 Amendment of s 183 (Return of certificate of competency)

- (1) Section 183, after ‘certificate of competency’—

insert—

or site senior executive notice

- (2) Section 183, after ‘the certificate’—

insert—

or notice

- (3) Section 183—

insert—

- (c) the chief executive suspends or cancels the certificate or notice under part 10A; or
- (d) the holder surrenders the certificate or notice.

76 Insertion of new ss 184 and 185

Part 10—

insert—

184 Effect on particular appointments of suspension, cancellation or surrender of certificate of competency or site senior executive notice

- (1) This section applies if—

[s 76]

- (a) a certificate of competency or site senior executive notice held by a person is suspended, cancelled or surrendered under this Act; and
 - (b) immediately before the suspension, cancellation or surrender 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, cancellation or surrender 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,

- cancelled or surrendered under this Act, details of the suspension, cancellation or surrender;
- (b) for a notice mentioned in subsection (1)(c)—the name and contact details of the person to whom the notice was given;
- (c) any other information prescribed by regulation.
- (3) The board of examiners may disclose information in the register, other than the contact details of an individual, to any person or agency.
- (4) In this section—
mutual recognition Act means—
- (a) the *Mutual Recognition Act 1992* (Cwlth);
or
- (b) the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth).

77 Insertion of new pt 10A

After part 10—

insert—

**Part 10A Suspension and
cancellation of
certificates of
competency and site
senior executive
notices by chief
executive**

186 Grounds for suspension or cancellation

- (1) Each of the following is a ground for suspending
-

[s 77]

or cancelling a person's certificate of competency under this part—

- (a) the person has contravened a safety and health obligation;
 - (b) the person has committed an offence against a law of Queensland or another State (a *corresponding law*) relating to mining safety;
 - (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.
- (2) Each of the following is a ground for suspending or cancelling a person's site senior executive notice under this part—
- (a) the person has contravened a safety and health obligation;
 - (b) the person has committed an offence against a corresponding law.

187 Notice of proposed action

- (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*).
- (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—
 - (a) the proposed action;
 - (b) the ground for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the ground;

- (d) if the proposed action is to suspend the certificate of competency or site senior executive notice—the proposed period of the suspension;
- (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.

188 Submission against taking of proposed action

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.

189 Decision to take proposed action

- (1) This section applies if—
 - (a) the period stated in the proposed action notice under section 187(2)(e) has ended; and
 - (b) the chief executive has considered any written submission made by the person under section 188; and
 - (c) the chief executive still considers a ground exists to take the proposed action.
- (2) The chief executive may decide—
 - (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

[s 78]

- (b) if the proposed action was to cancel the certificate of competency or site senior executive notice—to cancel the certificate or notice or suspend it for a period.
- (3) The chief executive must give the person notice of the decision.
- (4) The notice must state each of the following matters—
 - (a) the chief executive’s decision;
 - (b) the reasons for the decision;
 - (c) that the person may appeal against the decision within 28 days;
 - (d) how the person may appeal;
 - (e) that the person may apply for a stay of the decision if the person appeals against it.
- (5) The decision takes effect on the day the notice is given to the person.
- (6) The chief executive must give notice of the decision to—
 - (a) the following persons, to the extent the persons are known to the chief executive—
 - (i) for a decision relating to a certificate of competency—the site senior executive for each mine at which the person works;
 - (ii) for a decision relating to a site senior executive notice—the operator for each mine at which the person works; and
 - (b) the board of examiners.

78 Amendment of s 195 (Notice of accidents, incidents, deaths or diseases)

- (1) Section 195(6), from ‘disease at a mine’ to ‘this section’—

omit, insert—

reportable disease at a mine or as a result of operations

(2) Section 195—

insert—

(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.

(8) In this section—

reportable disease means a disease prescribed by regulation to be a disease that must be reported under this section.

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’—

insert—

, chief executive

80 Insertion of new s 216A

After section 216—

insert—

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

[s 81]

cancelled by the chief executive—section 189;

- (b) a corporation on which a civil penalty is imposed—section 246I.

81 Amendment of s 218 (How to start appeal)

- (1) Section 218(1)(b)—

insert—

- (ia) if the appeal is against the chief executive’s decision—the chief executive; or

- (2) Section 218(1)(b)(ia) and (ii)—

renumber as section 218(1)(b)(ii) and (iii).

82 Amendment of s 220 (Hearing procedures)

- (1) Section 220—

insert—

- (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.

- (2) Section 220(4), definition *original decision-maker*, after ‘Minister’—

insert—

, chief executive

- (3) Section 220(2A) to (4)—

renumber as section 220(3) to (5).

83 Amendment of s 231 (Evidentiary aids)

Section 231(1)(b), after ‘certificate,’—

insert—

notice,

84 Amendment of s 237 (Court may order suspension or cancellation of certificate)

(1) Section 237, heading, after ‘certificate’—

insert—

or notice

(2) Section 237, after ‘certificate of competency’—

insert—

or site senior executive notice

(3) Section 237—

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 mine at which the person works;

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

(b) the board of examiners.

[s 85]

85 Amendment of s 240 (Responsibility for acts or omissions of representatives)

(1) Section 240(3), ‘reasonable diligence’—

omit, insert—

reasonable precautions and proper diligence

(2) Section 240(4), definition *representative*, paragraph (a), ‘executive’—

omit.

86 Omission of s 241 (Executive officers must ensure corporation complies with Act)

Section 241—

omit.

87 Insertion of new pt 14B

After part 14A—

insert—

Part 14B Civil penalties

246E Definitions for part

In this part—

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

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.

penalty notice see section 246I(3).

proposed penalty notice see section 246G(2).

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

246FLiability for civil penalties

- (1) A relevant corporation is liable to pay the State a civil penalty if—
 - (a) the relevant corporation contravenes a civil penalty obligation; or
 - (b) a representative of the relevant corporation contravenes a civil penalty obligation.
- (2) A civil penalty may be imposed on the relevant corporation by a penalty notice given to the corporation by the chief executive.
- (3) The amount of the penalty is—
 - (a) if the civil penalty obligation is a category 1 obligation—1,000 penalty units; or
 - (b) if the civil penalty obligation is a category 2 obligation—750 penalty units; or
 - (c) if the civil penalty obligation is a category 3 obligation—500 penalty units.
- (4) For subsection (3), the category of a civil penalty obligation is the category prescribed by regulation for the obligation.
- (5) In this section—

representative, of a relevant corporation, means an officer, employee or agent of the corporation.

246GGiving of notice proposing imposition of civil penalty

- (1) This section applies if the chief executive reasonably believes a relevant corporation is

[s 87]

liable to pay a civil penalty on the grounds of a contravention of a civil penalty obligation.

- (2) The chief executive may give the corporation a notice (a *proposed penalty notice*) proposing to impose a civil penalty on the corporation on the grounds of the contravention.
- (3) The proposed penalty notice must state each of the following matters—
 - (a) that the chief executive proposes to impose a civil penalty on the corporation;
 - (b) the grounds for imposing the penalty;
 - (c) the facts and circumstances forming the basis for the grounds;
 - (d) that the corporation may make a written submission to the chief executive, within a stated period of at least 14 days after the corporation is given the notice, to show why the civil penalty should not be imposed;
 - (e) the way in which the submission may be made.

246H Submission against proposed imposition of civil penalty

The relevant corporation may, within the period stated in the proposed penalty notice under section 246G(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.

246I Giving of penalty notice

- (1) This section applies if—

- (a) the period stated in the proposed penalty notice under section 246G(3)(d) has ended; and
- (b) the chief executive has considered any submission made under section 246H; and
- (c) the chief executive is satisfied—
 - (i) the civil penalty obligation mentioned in the proposed penalty notice has been contravened; and
 - (ii) the relevant corporation is liable to a civil penalty on the grounds of the contravention.
- (2) The chief executive may decide to impose a civil penalty on the corporation on the grounds of the contravention.
- (3) If the chief executive makes a decision under subsection (2), the chief executive must give the corporation a notice (a *penalty notice*) stating each of the following matters—
 - (a) the chief executive has decided to impose a civil penalty on the corporation;
 - (b) the reasons for the decision;
 - (c) the amount of the penalty and the day by which it must be paid;
 - (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;
 - (e) how to appeal.
- (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.
- (5) The State may recover the penalty from the corporation as a debt.

[s 88]

246J Civil penalty can not be imposed after criminal proceeding

- (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.
- (2) Subsection (3) applies if—
 - (a) the chief executive has given a relevant corporation a proposed penalty notice in relation to a contravention of a civil penalty obligation; and
 - (b) before the chief executive makes a decision under section 246I, a criminal proceeding is started against the corporation for a corresponding offence.
- (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.
- (4) This section applies despite any other provision of this part.

246K Criminal proceeding after civil penalty imposed

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.

88 Amendment of s 254C (Public statements)

- (1) Section 254C(1)(b), ‘serious accidents’—

omit, insert—

accidents or high potential incidents

- (2) Section 254C(1)(c), ‘or authorised officers’—

omit, insert—

, authorised officers or the chief executive

- (3) Section 254C(1)(d)—

omit, insert—

(d) the cancellation or suspension of a certificate of competency or site senior executive notice under section 182(2) or part 10A;

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

- (4) Section 254C—

insert—

(4) Despite section 256(2), no liability is incurred by the State for the issue of, or for anything done for the purpose of issuing, a public statement under this section in good faith.

(5) No liability is incurred by a person for publishing, in good faith, information that has been included in a public statement under this section.

(6) In this section—

liability includes liability in defamation.

89 Amendment of s 255 (Disclosure of information)

- (1) Section 255—

insert—

(2A) Despite subsection (1), the chief inspector or chief executive may disclose to the Regulator or

[s 90]

WorkCover, under the *Workers' Compensation and Rehabilitation Act 2003*, any information the chief inspector or chief executive has that relates to any matter under that Act.

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

90 Amendment of s 262 (Regulation-making power)

- (1) Section 262(2)(i), after 'work'—

insert—

, including requirements for holders of certificates of competency or site senior executive notices to undertake continuing professional development decided by the board of examiners

- (2) Section 262(2)—

insert—

- (m) the health of persons who are, will be or have been employed as workers, including about—
- (i) the appointment, qualifications and removal of doctors and other health practitioners for mines; and
 - (ii) pre-employment and periodic medical examinations and health assessments to decide a person's fitness for work at a mine and for the purpose of health surveillance; and
 - (iii) the ownership, storage, confidentiality and release of the results of medical examinations and health assessments; and
 - (iv) reciprocal arrangements between operations for the exchange of

information or the recognition of medical examinations or health assessments.

91 Insertion of new pt 20, div 5

Part 20—

insert—

**Division 5 Transitional provisions for
Mines Legislation
(Resources Safety)
Amendment Act 2018**

282 Definition for division

In this division—

amended, in relation to a provision of this Act, means the provision as amended or inserted by the *Mines Legislation (Resources Safety) Amendment Act 2018*.

**283 Appointment of site senior executives during
1-year transitional period**

- (1) This section applies to the appointment of the site senior executive for a mine.
- (2) During the period starting on the commencement and ending 1 year after the commencement, amended section 49(4) does not apply to the appointment.
- (3) The chief inspector may extend the 1-year period mentioned in subsection (2) in relation to the appointment for a stated mine for a further period of not more than 1 year if satisfied there are exceptional circumstances.

[s 91]

284 Appointment of ventilation officers for underground mines during 3-year transitional period

- (1) This section applies to the appointment of the ventilation officer, or acting ventilation officer, for an underground mine.
- (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.

285 Continuation of exemptions for particular opal or gem mines for 3-year transitional period

- (1) This section applies to an opal or gem mine if—
 - (a) more than 4, but not more than 10, workers are employed at the mine; and
 - (b) immediately before the commencement, the mine was not required to have a safety and health management system.
- (2) During the period starting on the commencement and ending 3 years after the commencement—
 - (a) pre-amended sections 38(3) and 39(2) and (3) continue to apply in relation to the mine; and
 - (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
 - (c) amended section 44(1)(b), (f)(ii) and (iii) 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.
- (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).

(4) In this section—

pre-amended, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

92 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *executive officer*, *officer*, *safety and health management system* and *supplier*—

omit.

(2) Schedule 2—

insert—

civil penalty obligation, for part 14B, see section 246E.

corresponding offence, in relation to a contravention of a civil penalty obligation, for part 14B, see section 246E.

officer—

(a) of a corporation, means an officer within the meaning of the Corporations Act, section 9, other than a partner in a partnership; or

(b) for part 9, division 4, see section 129A.

penalty notice, for part 14B, see section 246I(3).

proposed action, for part 10A, see section 187(1).

proposed action notice, for part 10A, see section 187(2).

proposed penalty notice, for part 14B, see section 246G(2).

relevant corporation, for part 14B, see section 246E.

[s 93]

safety and health management system, for a mine, means a single safety and health management system that complies with section 55.

service provider see section 44(1).

site senior executive notices see section 180(e).

supplier, of plant, equipment, substances or other goods, means a person who contracts to supply the plant, equipment, substances or other goods to an operator, contractor or service provider.

workplace means a workplace to which the *Work Health and Safety Act 2011* applies.

(3) Schedule 2, definition *worker*—

insert—

(c) a service provider or employee of a service provider.

Part 4 **Amendments of other legislation**

Division 1 **Amendment of Coal Mining Safety and Health Regulation 2017**

93 **Regulation amended**

This division amends the *Coal Mining Safety and Health Regulation 2017*.

94 **Insertion of new s 371A**

After section 371—

insert—

371A Civil penalties—Act, ss 267E and 267F

- (1) For section 267E of the Act, definition *civil penalty obligation*, the safety and health obligations and other obligations mentioned in schedule 7A are prescribed.
- (2) For section 267F(3) of the Act, the category of a civil penalty obligation is—
 - (a) for an obligation mentioned in schedule 7A, part 1—category 1; or
 - (b) for an obligation mentioned in schedule 7A, part 2—category 2; or
 - (c) for an obligation mentioned in schedule 7A, part 3—category 3.

95 Insertion of new sch 7A

After schedule 7—

insert—

Schedule 7A Civil penalties

section 371A

Part 1 Category 1 obligations

- 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
- 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

[s 95]

- hazard management plans for the matters mentioned in section 149 of this regulation
- 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)
 - 4 the safety and health obligation under section 43(1)(b) of the Act (relating to compliance with a mine's safety and health management system by a contractor)
 - 5 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 the safety and health obligation under section 343 of this regulation (relating to the ventilation system for an underground mine)

Part 2 Category 2 obligations

- 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
- 2 the safety and health obligation under section 89A(4) of this regulation (relating to notification of excessive dust levels)

Part 3 Category 3 obligations

- 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, 255, 294, 299, 300, 309(2), 318, 323(3), 335, 347 to 349, 352, 353 and 368 of this regulation
- 2 the safety and health obligations under section 47 of this regulation (relating to health assessments)
- 3 the obligations under section 198 of the Act, other than section 198(7) (relating to notifying accidents, incidents, deaths or diseases)

96 **Amendment of sch 8 (Fees)**

- (1) Schedule 8, part 1—

insert—

- 2A Application for assessment for a ventilation officer's certificate of competency 23.50

- (2) Schedule 8, part 1, items 2A and 3—

renumber as items 3 and 4.

[s 97]

Division 2 Amendment of Mining and Quarrying Safety and Health Regulation 2017

97 Regulation amended

This division amends the *Mining and Quarrying Safety and Health Regulation 2017*.

98 Insertion of new s 150A

After section 150—

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.

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)

Part 3 Category 3 obligations

- 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
- 2 the safety and health obligations under section 131 of this regulation (relating to health assessments)
- 3 the obligations under section 195 of the Act, other than section 195(7) (relating to notifying accidents, incidents, deaths or diseases)

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