

Western Australia

Coal Mines Regulation Act 1946

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NOTES

Coal Mines Regulation Act 1946

An Act to consolidate and amend the law relating to the inspection and regulation of Coal Mines and for other relative purposes.

[Assented to 24 January 1947.]

Be it enacted —

1. Short title

This Act may be cited as the *Coal Mines Regulation Act 1946*, and shall come into operation on a date to be fixed by proclamation.¹

[Section 1 repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8.]

[2, 3. Repealed by No.62 of 1994 s.107.]

Division 1 — Preliminary

[Heading repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8.]

4. Application of Act

This Act shall apply to mines of coal, mines of shale, and mines of fire-clay; and in this Act, unless the context otherwise requires, the word “**mine**” or “**mining**” means a mine or mining to which this Act applies.

[Section 4 repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8.]

5. Interpretation of terms

In this Act, unless the context otherwise requires —

“agent” in relation to —

- (a) a mine in which men are employed underground — means a person who is the holder of a first class mine manager’s certificate of competency having control of a mine or group of mines who directs the policy and acts as the representative of the owner with respect to a mine or group of mines; and
- (b) an open cut — means a person who is the holder of a first class mine manager’s certificate of competency or of an open cut mine manager’s certificate of competency having control of an open cut or group of open cuts who directs the policy and acts as the representative of the owner with respect to an open cut or a group of open cuts;

“deputy” means a person appointed to the position of deputy pursuant to section twenty A of this Act;

“inspector” means inspector of mines or State Coal Mining Engineer under this Act;

“junior” means a person under the age of 19 years;

“manager” means the manager or mining manager having the control and daily supervision of the mine;

“mine” includes every open cut, every shaft in the course of being sunk, every tunnel, every level and inclined plan in the course of being driven; and every shaft, level, plane, working place, tramway and siding both below ground and above ground, in and adjacent to and belonging to a coal mine;

“miner” means any person employed in or about a coal mine;

“Minister” means the Minister for Mines;

“open cut” means a mine that is formed by an excavation in the ground and that has no overlying cover of earth;

“owner” when used in relation to any mine, means any person or persons or body corporate who is the immediate proprietor, or lessee, or occupier of any mine or of any part thereof, or any agent, or superintendent, or trustee, or trustees acting on behalf of the owner, and does not include a person or body corporate who merely receives a royalty, rent or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability;

“plan” includes a correct copy or tracing of any original plan;

“registrar” means Registrar of a Mining District;

“regulations” means regulations under this Act;

“shaft” means a vertical or inclined opening used or likely to be used for the purpose of mining or prospecting or for gaining access to the underground workings of a mine or for the ventilation thereof and leading from the natural surface of the earth underground or from one place underground to another place underground;

“superintendent” has the same meaning as “agent”;

“the Board” means the Board of Examiners appointed under section forty of this Act;

“underground”, in relation to a mine or mining, means a working which is beneath the natural surface of the earth and is covered by natural rock, shale, coal or earth or by timber or other material and the term includes and shaft that exceeds two metres;

“under manager” means a person appointed to be under manager pursuant to subsection (5) of section nineteen of this Act;

“union” means the Coal Miners industrial Union of Workers of Western Australia and any other industrial union or association which has members employed in the coal industry.

[Section 5 amended by No. 26 of 1951 s.3; No. 137 of 1976 s.3; No. 6 of 1985 s.2; repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8.]

[5A to 26. Repealed by No. 62 of 1994 s.107.]

[27. Section 27 repealed by No. 2 of 1990 s.7.]

[28 to 37. Repealed by No. 62 of 1994 s.107.]

Division 8 — Accident relief and superannuation

[Heading repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8.]

38. Coal Mines Accident Relief Fund

- (1) The owner of every mine shall contribute to a fund for the necessary relief of persons who during the course of their duties as employees of coal mines in Western Australia —
 - (a) suffer personal injury by accident arising out of or in the course of the employment; or
 - (b) contract any disease,

for which they are eligible to receive compensation under the provision of the *Workers' Compensation Act 1912*, and for the relief of the families of employees who have been killed by such accident or who have died from any such disease, and for the purposes of such fund shall, in the months of January and July in every year, pay a sum equivalent to 0.4101 cent per tonne on the output of all coal sold from any mine during the preceding

six months respectively, ending on the last day of the preceding month of December or June (as the case may be), into a trust account to be kept by a trust constituted pursuant to this section as hereinafter provided for.

- (2) All employees (excepting juniors) of every coal mine working in Western Australia shall each contribute to the Coal Mines Accident Relief Fund thirty cents per fortnight, and juniors who are employees of such mines shall each contribute fifteen cents per fortnight to the said fund, and juniors in case of personal injury by accident or the contraction of any disease, during the course of their duties as such employees and for which they are eligible to receive compensation under the *Workers' Compensation Act 1912*, shall receive only half the benefits from the fund as compared with the adult employees, and the owner or manager of every such mine shall deduct fortnightly from the earnings of each of his employees such contributions, and pay the same to the trust to be dealt with in accordance with the provisions of this Act, and shall be responsible to the provisions of this Act, and shall be responsible to the said trust for compliance with the provisions of this section. The obligation to contribute to and the right to receive the benefits of the said fund shall extend to check-weighers appointed under section thirty-one and the provisions of this subsection shall apply to check-weighers accordingly.
- (3) Insofar as employees (including juniors) purporting to act in compliance with subsection (2) of section sixty-seven of the *Coal Mines Regulation Act 1902-1941*, had, prior to the commencement of the *Coal Mines Regulation Act Amendment Act 1940* (No. 3 of 1940), contributed to the Coal Mines Accident Relief Fund any amounts at rates in excess of the rates specified in the said subsection as then in force, such amounts shall be deemed to have been properly and validly so contributed, and shall be deemed to have been and shall be part of the moneys in the said fund, and may be used and applied in and for any of the purposes for which moneys in the said fund may be used and applied under the provisions of this Act.

- (3a) Any moneys purported to have been contributed to the Coal Mines Accident Relief Fund under subsection (2) of this section in excess of the amounts prescribed by that subsection as in force immediately before the coming into operation of section ten of the *Coal Mines Regulation Act Amendment Act 1976* shall be deemed to have been properly and validly contributed and shall be deemed to have been and shall be part of the moneys of that fund, and may be used and applied in and for any of the purposes for which moneys in that fund may be used and applied under the provisions of this Act.
- (4) The said trust shall be called the Coal Mines Accident Relief Fund Trust, and shall consist of a representative of the Mines Department, to be appointed by the Minister, and two persons to be appointed by the mine owners and miners, respectively, in the manner prescribed in the regulations, and the said trustees shall, subject to the regulations, pay such sums to persons who, during the course of their duties as employees of coal mines, have suffered personal injury by accident arising out of or in the course of the employment or have contracted any disease for which they are eligible to receive compensation under the *Workers' Compensation Act 1912*, or to relatives of persons who have been killed by such accident or who have died from the effects of any such disease, as shall be recommended and approved of by the accident committee to be appointed by the employees of the coal mines, in the manner prescribed in the regulations.
- (5) The trustees or their accredited representative shall have power to examine from time to time the books of any owner or manager of a coal mine, for the exclusive purpose of ascertaining the amounts due or paid by such mine to the said Accident Relief Fund, and also as to the amounts deducted from the employees of the mine as contributions towards such fund.
- (6) If on such examination it appears that any such owner or manager has not paid into the said Accident Relief Fund any amount as hereby prescribed, or only a part thereof, such owner

or manager shall be deemed guilty of an offence against this Act, and shall be liable to a penalty of one dollar in respect of each and every dollar or fraction of a dollar which he should have paid but has not so paid into the said fund, and all penalties recovered under this section, less the expenses incident to recovery of same, shall be paid into the aforesaid fund, and shall form part thereof.

- (7) Every owner, or manager, or officer appointed by the employees of a coal mine who refuses, obstructs, or prevents or causes the refusal, obstruction, or prevention of the production of the books of the mine, and the free examination of such books for the aforesaid purposes, shall be deemed guilty of an offence against this Act.
- (8) The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Coal Mines Accident Relief Fund Trust and its operations.
- (9) All moneys remaining unclaimed for twelve months shall revert to the fund.
- (10) The obligation to contribute to and the right to receive the benefits of the Coal Mines Accident Relief Fund, imposed and conferred by this section, extend to persons who are employed solely in cutting timber for use in or about a coal mine, whether as contractors to the owner thereof or as persons employed by such a contractor.

[Section 38 amended by No. 21 of 1962 s.2; No. 14 of 1965 s.3; No. 113 of 1965 s.4 (1); No. 94 of 1972 s.4; No. 137 of 1976 s.10; No. 6 of 1985 s.6; No. 98 of 1985 Schedule 1; repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8⁴.]

Division 9 — Miscellaneous

[Heading repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8.]

[39 to 63. Repealed by No. 62 of 1994 s.107.]

64. Regulations

- (1) The Governor may make regulations for or with respect to any matters or things which are by this Act authorized or permitted to be prescribed or which are necessary or expedient to be prescribed in order to carry the objects and purposes of this Act into effect.
- (2) Without in any way affecting or limiting the generality of subsection (1) of this section the Governor may make regulations particularly in relation to any of the following matters —
 - (a) the form of register to be kept of juniors employed in or in connection with any mine;
 - (b) the examinations to be passed by applicants for certificates of competency granted under this Act, the fees payable for examinations and certificates of competency;
 - (c) any forms of returns or plans or section to be furnished under this Act and the particulars to be stated therein;
 - (d) the management and administration of funds and moneys in connection with the accident fund under this Act.
- (2a) The regulations may prescribe written or oral examinations or both and shall require that in every examination regard shall be had to such knowledge as is necessary for the practical working of mines.
- (2b) Regulations relating to examinations for a second class mine manager's certificate of competency, third class or deputy's certificate of competency, an open cut mine under manager's certificate of competency and a deputy's (open cut) certificate of competency shall prescribe examinations that are suitable for practical working miners.

- (3) Any regulations made under this section may —
- (a) be made for the whole of the State or any particular part thereof;
 - (b) impose as a penalty for any breach of any regulation or for any disobedience to any lawful order of a registrar, a fine not exceeding twenty dollars and in default of payment thereof imprisonment for any period not exceeding three months.

[Section 64 amended by No. 113 of 1965 s.4 (1); No. 137 of 1976 s.23; No. 6 of 1985 s.6; No. 2 of 1990 s.12; No. 51 of 1992 s.16 (1); repealed by No. 62 of 1994 s.107; revived by No. 59 of 1998 s.8^d.]

[65 to 69. Repealed by No. 62 of 1994 s.107.]

[The Schedule. Repealed by No. 62 of 1994 s.107.]

Notes

- ^{1.} This is a compilation of the *Coal Mines Regulation Act 1946* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Coal Mines Regulation Act 1946</i>	63 of 1946	24 Jan 1946	1 Oct 1947 (see <i>Gazette</i> 19 Sep 1947 p.1763)
	26 of 1951	12 Dec 1951	12 Dec 1951
	21 of 1962	1 Oct 1962	1 Oct 1962
	14 of 1965	1 Dec 1965	8 Nov 1965 (see <i>Gazette</i> 5 Nov 1965 p.3806)
<i>Decimal Currency Act 1965</i> s. 4(1)	113 of 1965	21 Dec 1965	14 Feb 1966
<i>Metric Conversion Act 1972</i>	94 of 1972	4 Dec 1972	Relevant amendments effective 1 Jan 1973 (see <i>Gazette</i> 29 Dec 1972 p.4811)
	137 of 1976	13 Dec 1976	24 Jul 1978 (see <i>Gazette</i> 14 Jul 1978 p.2404)
	6 of 1985	25 Mar 1985	22 Apr 1985
	98 of 1985	4 Dec 1985	1 Jul 1986 (see <i>Gazette</i> 30 Jun 1986 p.2255)
<i>Coal Mines Regulation Amendment Act 1990</i>	2 of 1990	2 Jul 1990	6 Jul 1990 (see <i>Gazette</i> 6 Jul 1990 p.3264)
<i>Criminal Law Amendment Act (No. 2) 1992</i> s. 16(1)	51 of 1992	9 Dec 1992	6 Jan 1993
<i>Acts Amendment (Public Sector Management) Act 1994</i> Pt. 4	32 of 1994	29 Jun 1994	1 Oct 1994 (see <i>Gazette</i> 30 Ser 1994 p.4948)
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994</i> Pt. 4	92 of 1994	23 Dec 1994	1 Jan 1995 (see s. 2 and <i>Gazette</i> 30 Dec 1994 p.7211)
	62 of 1994	7 Nov 1994	9 Dec 1995 (see s. 2 and <i>Gazette</i> 8 Dec 1995 p.5935)

Coal Mines Legislation Amendment and Revival Act 1998 Pt. 3⁴ 59 of 1998 31 Dec 1998 Part 3 came into operation 31 Dec 1998 (see s. 2)

² Reference to this footnote has been deleted by the *Acts Amendment (Public Sector Management) Act 1994*.

³ Now *Weights and Measures Act 1915-1978*.

⁴ Part 3 of the *Coal Mines Legislation Amendment and Revival Act 1998* (Act No. 59 of 1998) reads as follows —

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Part 3 — Revival, validation and transitional provisions

7. Interpretation

In this Part —

“**entitled relative**” means a person who, as a relative of a deceased employee of a coal mine, is entitled to a benefit under section 38(4) of the repealed Act as revived by section 8;

“**expiry day**” means the day on which an order under section 12 is published in the *Gazette*;

“**Fund**” has the same meaning as in the *Coal Miners’ Welfare Act 1947*;

“**injured employee**” means a person who, as an employee of a coal mine who has suffered personal injury or contracted a disease, is entitled to payments under section 38(4) of the repealed Act as revived by section 8;

“**Relief Fund**” means the Coal Mines Accident Relief Fund referred to in section 38 of the repealed Act;

“**repealed Act**” means the *Coal Mines Regulation Act 1946* repealed by section 107 of the *Mines Safety and Inspection Act 1994* which came into operation on 9 December 1995;

“**repealed regulations**” means the Coal Mines Regulations repealed by regulation 17.2 of the *Mines Safety and Inspection Regulations 1995* published in the *Gazette* on 8 December 1995;

“Trust” means the Coal Mines Accident Relief Fund Trust referred to in section 38 of the repealed Act.

8. Revival

- (1) Subject to subsection (2), the repealed Act other than sections 2, 3, 5A to 37, 39 to 63 and 65 to 69 —
 - (a) is hereby revived;
 - (b) is taken to have been in operation from 9 December 1995; and
 - (c) shall continue in operation until the expiry day.
- (2) Despite the revival of section 38 of the repealed Act, neither an owner nor an employee of a coal mine is required to contribute any moneys to the Relief Fund after the commencement of this Act.
- (3) The repealed regulations other than regulations 2 to 206 and 235 to 276 —
 - (a) are hereby revived;
 - (b) are taken to have been in operation from 9 December 1995; and
 - (c) shall continue in operation until the expiry day.

9. Validation

- (1) For the avoidance of doubt, anything done under —
 - (a) section 38 or 64 of the repealed Act; or
 - (b) regulations 207 to 234A of the repealed regulations,

before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed Act or the repealed regulations, as the case requires, had not been repealed.

- (2) Without limiting the generality of subsection (1) —
- (a) any moneys purported to have been payable to, contributed to and received into the Relief Fund under section 38(1) or (2) of the repealed Act before the commencement of this Act are taken to be, and to have always been, validly payable to, contributed to and received into the Relief Fund and to be recoverable accordingly;
 - (b) the appointment of a trustee of the Trust purported to have been made under section 38(4) of the repealed Act before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed Act had not been repealed; and
 - (c) the appointment of a member of the accident committee, the secretary of that committee and the secretary of the Trust purported to have been made under the repealed regulations before the commencement of this Act is as valid and effective as it would have been if, at the time when it was done, the repealed regulations had not been repealed.

10. Application of Relief Fund moneys

- (1) Moneys standing to the credit of the Relief Fund are to be applied by the Trust as the Trust thinks fit, and with the approval of the Minister —
- (a) to the entitled relatives, by way of a lump sum payment in full satisfaction of their entitlement to payment under the repealed Act;
 - (b) in payment of expenses and costs incurred under the repealed Act; and
 - (c) in payment of the costs of, and related to, the implementation of this Act.
- (2) The entitlement of an injured employee to payment from the Relief Fund ceases on the date the lump sum payments are made to entitled relatives under subsection (1)(a).

- (3) The balance of the moneys standing to the credit of the Relief Fund after the payments referred to in subsection (1) have been made is to be transferred to the separate account forming part of the Fund into which moneys that are payable under section 6(1a) of the *Coal Miners' Welfare Act 1947* as in force after the commencement of this Act are to be credited.

11. Reporting

- (1) The Trust as constituted under the repealed Act on the commencement of this Act is to, as soon as practicable after that commencement —
- (a) perform the functions described in section 10; and
 - (b) prepare a report on its operations in respect of —
 - (i) the financial year ending on the last preceding 30 June; and
 - (ii) the period commencing on the last preceding 1 July and ending when there are no moneys in the Relief Fund and no moneys to be paid into the Relief Fund.
- (2) The reports prepared under subsection (1)(b) are to comply, with any necessary modifications, with the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities.
- (3) A report under subsection (1)(b)(ii) is deemed to be an annual report for the purposes of section 69 of the *Financial Administration and Audit Act 1985*.

12. Expiry of revived provisions

When the Minister is satisfied that there are no moneys in the Relief Fund and no moneys to be paid into the Relief Fund, the Minister is to make an order to that effect, and publish that order in the *Gazette*.

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