Western Australia

Mines Safety and Inspection Act 1994

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Contents

Part 1 — Preliminary

1. Short title 2
2. Commencement 2
4. Terms used 2
4B. First offence and subsequent offence defined 6
5. Crown bound 7
6. Application to certain excavations, shafts, or tunnels 7
7. Relationship with other Acts 8
8. Power to exempt 8

Part 9 — Offences, penalties and legal proceedings

Division 1 — General provisions

96. Prosecutions, who may commence etc. 9
97. Time limit for prosecutions 9
100. Liability of directors etc. for offences by corporation 9
101A. No double jeopardy 10

Part 10 — Final provisions

104. Regulations 11
105A. Regulations for levy for costs of administering *Work Health and Safety Act 2020* in relation to mines and mining operations 13
105AB. Mines Safety Account 14

Notes

Compilation table 16
Other notes 18

Defined terms

Western Australia

Mines Safety and Inspection Act 1994

An Act to consolidate and amend the law relating to the safety of mines and mining operations and the inspection and regulation of mines, mining operations and plant and substances supplied to or used at mines; to promote and improve the safety and health of persons at mines and for connected purposes.

[Long title amended: No. 30 of 1995 s. 52.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Mines Safety and Inspection Act 1994*.

2. Commencement

This Act comes into operation on such day as is fixed by proclamation.

*[**3.** Deleted: No. 36 of 2020 s. 281.]*

4. Terms used

(1) In this Act, unless the contrary intention appears —

apprentice means a person who is an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

department means the department of the Public Service of the State principally assisting the Minister in the administration of this Act;

employee means —

(a) a person by whom work is done at a mine under a contract of employment; and

(b) an apprentice who works at a mine;

employer means —

(a) a person who employs an employee at a mine under a contract of employment; and

(b) in relation to an apprentice, a person who employs the apprentice at a mine under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

exploration operations means any exploration activity which is undertaken on a mining tenement, whether offshore or on land, but does not include —

(a) any development work involving underground operations; or

(b) the excavation of any trial pits beyond the extent permitted under the tenement conditions; or

(c) remote sensing activity carried out using airborne or satellite mounted equipment (except for ground based activity in support of such remote sensing activity);

inspector means an inspector appointed under the *Work Health and Safety Act 2020* Part 9;

mine means a place at which mining operations are carried on and, where mining operations are being carried on in conjunction with one another at 2 or more places, those places are to be taken to constitute one mine unless the regulator notifies the principal employer in writing otherwise in accordance with subsection (3); and ***to mine*** includes to carry on any manner or method of mining operations;

mineral does not include natural gas or mineral oil in a free state;

mining operations means any method of working by which the earth or any rock structure, coal seam, stone, fluid, or mineral bearing substance is disturbed, removed, washed, sifted, crushed, leached, roasted, floated, distilled, evaporated, smelted, refined, sintered, pelletized, or dealt with for the purpose of obtaining any mineral or rock from it for commercial purposes or for subsequent use in industry, whether it has been previously disturbed or not, and includes —

(a) exploration operations; and

(b) developmental and construction work associated with opening up or operating a mine; and

(c) the removal and disposal of overburden or waste or residues by mechanical or other means and the stacking, depositing, storage, and treatment of any substance considered to contain any mineral; and

(d) the operation of blast furnaces and direct reduction furnaces; and

(e) the operation of privately owned railways to transport ore or other mining products, or to provide related services; and

(ea) the transport of ore or other mining product that takes place on a road that is not a road as defined in the *Road Traffic (Administration) Act 2008* section 4; and

(f) the crushing, screening, sorting, stacking, and loading and handling of ore or other mining products at any rail or road terminal or any loading or transhipment points, including seaports; and

(g) the operation of any support facilities on the minesite, including mine administration offices, workshops, and services buildings; and

(h) borefields remote from the minesite but an integral part of the mining operation; and

(i) operations by means of which salt or other evaporites are harvested; and

(j) operations by means of which any mineral is recovered from the sea or sea bed or a natural water supply; and

(k) operation of residential facilities and recreational facilities and the ground used for that purpose, where such facilities are located on a mining tenement and are used solely in connection with mining operations; and

(l) the operation of any project which is for the time being declared by the Governor to be a mining operation under section 6; and

(m) operations undertaken for the environmental rehabilitation of the minesite during production operations and after their completion; and

(n) operations for the care, security and maintenance of a mine and plant at the mine undertaken during any period when production or development operations at the mine are suspended; and

(o) operations undertaken to leave a mine safe to be abandoned,

but does not include the operation of —

(p) steel making plants; or

(q) rolling mills; or

(r) facilities for the manufacture of goods from mining products; or

(s) residential facilities or recreational facilities and the ground used for the purpose where such facilities are not located on a mining tenement and directly associated with mining operations; or

(t) sand, gravel, limestone, or rock excavation carried on by or for any State agency or instrumentality or any local government for the use or disposition by any such agency, instrumentality or local government; or

(u) excavation activities on private land by and for the use of the owner of the land;

principal employer —

(a) in relation to a mine (other than a mine where only exploration operations are being carried out), means the employer who is the proprietor, lessee, or occupier of the mine and who has overall control and supervision of the mine and mining operations at the mine; and

(b) in relation to a mine where only exploration operations are being carried out, means the employer who has

overall control and supervision of the exploration operations at the mine;

regulator has the meaning given in the *Work Health and Safety Act 2020* section 4;

rock means any portion of the earth's crust, whether consolidated or not;

self-employed person means an individual who works for gain or reward otherwise than —

(a) under a contract of employment; or

(b) as an apprentice,

whether or not the individual is an employer;

(2) Unless the contrary intention appears, a reference in this Act to a mine is to be taken to include a reference to any part of the mine.

(3) Where mining operations are being carried on in conjunction with one another at 2 or more places, the regulator may notify the principal employer in writing that each of those places or such of those places as are specified in the notice are to be regarded as separate mines for the purposes of this Act.

[(4) deleted]

[Section 4 amended: No. 30 of 1995 s. 53 and 76(1); No. 79 of 1995 s. 67(4); No. 14 of 1996 s. 4; No. 16 of 2002 s. 3; No. 7 of 2004 s. 70; No. 51 of 2004 s. 115(2); No. 68 of 2004 s. 14, 49, 73, 80 and 88; No. 16 of 2008 s. 4; No. 44 of 2008 s. 55; No. 8 of 2012 s. 134; No. 33 of 2014 s. 4; No. 36 of 2020 s. 282.]

*[**4A.** Deleted: No. 36 of 2020 s. 283.]*

4B. First offence and subsequent offence defined

(1) In this section —

relevant day means the day on which section 15 of the *Mines Safety and Inspection Amendment Act 2004* comes into operation.

(2) For the purposes of this Act —

(a) an offence is a first offence committed by a person if, at the time when the offence is committed, the person has not previously been convicted of any offence against this Act committed on or after the relevant day; and

(b) an offence is a subsequent offence committed by a person if, at the time when the offence is committed, the person has previously been convicted of one or more offences against this Act committed on or after the relevant day.

[Section 4B inserted: No. 68 of 2004 s. 15.]

5. Crown bound

This Act binds the Crown.

6. Application to certain excavations, shafts, or tunnels

(1) The Governor may, by order published in the *Gazette*, declare any surface or underground excavation, shaft, or tunnel constructed for purposes other than those set out in the definition of ***mining operations*** in section 4(1) to be deemed a mining operation for the purposes of this Act during any period of the construction of the excavation, shaft or tunnel.

(2) In an order published under subsection (1), the Governor may exempt the excavation, shaft, or tunnel from such provisions of this Act as are specified in the order and may prescribe conditions under which the project is to be carried on.

(3) This Act applies to an excavation, shaft, or tunnel referred to in an order under subsection (1) subject to the terms of that order.

*[**6A.** Deleted: No. 36 of 2020 s. 284.]*

7. Relationship with other Acts

[(1) deleted]

(2) This Act does not apply to or in relation to a railway to which the *Rail Safety National Law (WA)* applies or to the ownership or operation of such a railway.

[Section 7 amended: No. 32 of 1998 s. 64(2); No. 18 of 2010 s. 264; No. 21 of 2015 s. 50; No. 36 of 2020 s. 285; No. 7 of 2024 s. 58.]

8. Power to exempt

(1) The Governor may by order published in the *Gazette* exempt a mine or class of mine from all or any of the provisions of this Act for such period as is specified in the order and may by further order so published revoke or amend such an order.

(2) The Governor may specify in the order any conditions to which the exemption is to be subject and if any of those conditions is not complied with, the order ceases to have effect.

(3) Section 42 of the *Interpretation Act 1984* applies to an order made under this section as if that order were regulations within the meaning of that section of that Act, except that the reference in section 42(1) of that Act to 6 sitting days is for the purposes of this section to be construed as a reference to 9 sitting days.

[Parts 2-8 (s. 8A-93) deleted: No. 36 of 2020 s. 286.]

Part 9 — Offences, penalties and legal proceedings

Division 1 — General provisions

[Heading inserted: No. 68 of 2004 s. 28.]

*[**94, 95.** Deleted: No. 36 of 2020 s. 287.]*

96. Prosecutions, who may commence etc.

(1) Every proceeding for an offence under this Act may be instituted and conducted by an inspector or by some member of the Public Service authorised in writing for the purpose by the Minister.

(2) An inspector or officer is not to be personally responsible for any costs incurred by or awarded against the inspector or officer in connection with any proceeding for an offence under this Act.

*[**96A.** Deleted: No. 36 of 2020 s. 288.]*

97. Time limit for prosecutions

Proceedings for an offence against this Act must be commenced within 3 years after the offence was committed.

[Section 97 inserted: No. 68 of 2004 s. 31(1).]

*[**98-99A.** Deleted: No. 36 of 2020 s. 289.]*

100. Liability of directors etc. for offences by corporation

(1) Where a corporation commits an offence under this Act and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other officer of the body, or any person who was purporting to act in any such capacity, that person, as well as the corporation, commits that offence.

(2) Where the affairs of a corporation are managed by its members, subsection (1) applies in relation to the acts and defaults of a

member in connection with the member's functions of management as if the member were a director of the corporation.

(3) A person convicted of an offence by virtue of this section is liable to the penalty to which an individual who is convicted of that offence is liable.

[Section 100 amended: No. 68 of 2004 s. 35; No. 36 of 2020 s. 290.]

*[**100A, 101.** Deleted: No. 36 of 2020 s. 291.]*

101A. No double jeopardy

A person is not liable to be punished twice under this Act in respect of any act or omission.

[Section 101A inserted: No. 68 of 2004 s. 37.]

[Divisions 2 and 3 (s. 101B-102AA) deleted: No. 36 of 2020 s. 292.]

Part 10 — Final provisions

*[**102A, 103.** Deleted: No. 36 of 2020 s. 293.]*

104. Regulations

(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for achieving the objects and giving effect to the purposes of this Act.

[(1a) deleted]

(2) Regulations may be made under this Act —

(a) so as to apply —

(i) generally, or in a particular class of case or in particular classes of cases or in relation to all mines, to specified mines or to mines of a particular class; or

(ii) at all times or at a specified time or at specified times; or

(iii) throughout the State or in a specified part or specified parts of the State; or

(iv) subject to specified exceptions; or

(v) in respect of a particular coal mine in order to enhance safety and health at that mine;

and

(b) so as to require a matter affected by them to be —

(i) in accordance with a specified standard or specified requirement; or

(ii) as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body;

and

(c) so as to confer on a specified person or body, or a specified class of person or body, a discretionary authority; and

(d) so as to provide that, in specified cases or a specified class of case or specified classes of cases, whether on specified conditions or unconditionally, persons or things of a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified.

(3) In subsection (2), ***specified*** means specified in the regulations.

(4) Regulations made under this Act may provide that contravention of a regulation constitutes an offence and provide for penalties not exceeding —

[(a) deleted]

(b) in the case of an offence committed by an individual —

(i) for a first offence, a fine of $25 000; and

(ii) for a subsequent offence, a fine of $31 250;

or

(c) in the case of an offence committed by a corporation —

(i) for a first offence, a fine of $50 000; and

(ii) for a subsequent offence, a fine of $62 500.

[(4a), (5) deleted]

(6) Regulations made under this Act may adopt either wholly or in part and either specifically or by reference, any of the standards, rules, codes or specifications of Standards Australia, and other Australian and international bodies of well established high repute.

[Section 104 amended: No. 30 of 1995 s. 75 and 76(2) and (4); No. 74 of 2003 s. 83; No. 7 of 2004 s. 70; No. 68 of 2004 s. 13, 39, 72 and 92; No. 16 of 2008 s. 33; No. 33 of 2014 s. 14; No. 36 of 2020 s. 294.]

105A. Regulations for levy for costs of administering *Work Health and Safety Act 2020* in relation to mines and mining operations

(1) Regulations may be made under section 104 to provide for a levy, which may be of the nature of a tax, to be payable to the State for the costs of administering the following —

(a) the *Work Health and Safety Act 2020* in relation to mines and mining operations;

(b) this Act.

[(2) deleted]

(2A) To the extent that the regulations provide for a levy that is a tax, the regulations may impose the tax.

(3) The regulations may deal with —

(a) the circumstances in which liability to pay the levy is imposed;

(b) how the amount of the liability is to be assessed;

(c) on whom liability is imposed to pay the amount assessed, when payment becomes due, and how payment is to be made;

(d) who is exempt or partially exempt from liability to pay the amount assessed and the conditions to which an exemption, or partial exemption, is subject;

(e) rights to object to an assessment and how the objection is to be dealt with;

(f) the consequences of failure to pay an amount in accordance with the regulations, which may include the imposition of an increase in the amount of an outstanding liability and may include interest;

(g) how an amount outstanding may be recovered.

(4) The regulations may —

(a) provide for the keeping of records and the provision of information to facilitate the administration of the provisions for the levy;

(b) provide for the authorisation of persons to perform functions for the purpose of investigating and enforcing compliance with the provisions for the levy and, for those purposes, give authorised persons functions, which may include functions of a kind comparable to a kind of functions that the *Work Health and Safety Act 2020* gives to an inspector.

[Section 105A inserted: No. 45 of 2009 s. 4; amended: No. 36 of 2020 s. 295; No. 37 of 2020 s. 4.]

105AB. Mines Safety Account

(1) An agency special purpose account under the *Financial Management Act 2006* section 16 is to be established for the department and called the Mines Safety Account.

(2) The Mines Safety Account is to be credited with any levy paid under regulations mentioned in section 105A(1) including any additional outstanding liability and interest as mentioned in section 105A(3)(f).

(3) Moneys held in the Mines Safety Account are to be applied in payment of the costs of administering the following —

(a) the *Work Health and Safety Act 2020* in relation to mines and mining operations;

(b) this Act.

[Section 105AB inserted: No. 45 of 2009 s. 4; amended: No. 36 of 2020 s. 296.]

*[**105-107.** Deleted: No. 36 of 2020 s. 297.]*

*[**108.** Deleted: No. 33 of 2014 s. 15.]*

*[**109, 110.** Deleted: No. 36 of 2020 s. 297.]*

[Schedule 1 deleted: No. 33 of 2014 s. 16.]

[Schedule 2 omitted under the Reprints Act 1984 s. 7(4)(e).]

Notes

This is a compilation of the *Mines Safety and Inspection Act 1994* and includes amendments made by other written laws [2, 3]. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
Mines Safety and Inspection Act 1994	62 of 1994	7 Nov 1994	s. 1 and 2: 7 Nov 1994; Act other than s. 1 and 2: 9 Dec 1995 (see s. 2 and *Gazette* 8 Dec 1995 p. 5935)
Occupational Safety and Health Legislation Amendment Act 1995 Pt. 3	30 of 1995	11 Sep 1995	20 Jan 1996 (see s. 2 and *Gazette* 19 Jan 1996 p. 201)
Industrial Relations Legislation Amendment and Repeal Act 1995 s. 67(4)	79 of 1995	16 Jan 1996	16 Jan 1996 (see s. 3(1))
Reprint of the *Mines Safety and Inspection Act 1994* as at 6 Feb 1996 (includes amendments listed above)			
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Statutes (Repeals and Minor Amendments) Act 1997 s. 88	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 51	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
Rail Safety Act 1998 s. 64(2)	32 of 1998	6 Jul 1998	3 Feb 1999 (see s. 2 and *Gazette* 2 Feb 1999 p. 351)
Reprint of the *Mines Safety and Inspection Act 1994* as at 17 Mar 2000 (includes amendments listed above)			
Statutes (Repeals and Minor Amendments) Act 2000 s. 25	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Mines Safety and Inspection Amendment Act 2002	16 of 2002	8 Jul 2002	5 Aug 2002

Short title	Number and year	Assent	Commencement
Statutes (Repeals and Minor Amendments) Act 2003 s. 83 and 87(7)	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Dangerous Goods Safety Act 2004 s. 70	7 of 2004	10 Jun 2004	1 Mar 2008 (see s. 2 and *Gazette* 29 Feb 2008 p. 669)
Occupational Safety and Health Legislation Amendment and Repeal Act 2004 s. 115 [4]	51 of 2004	12 Nov 2004	4 Apr 2005 (see s. 2 and *Gazette* 14 Dec 2004 p. 5999-6000)
Mines Safety and Inspection Amendment Act 2004 [5-9]	68 of 2004	8 Dec 2004	s. 1 and 2: 8 Dec 2004; Act other than s. 1 and 2: 4 Apr 2005 (see s. 2 and *Gazette* 14 Dec 2004 p. 5999-6000 and *Gazette* 11 Feb 2005 p. 695)
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129 (correction by *Gazette* 7 Jan 2005 p. 53))
Reprint 3: The *Mines Safety and Inspection Act 1994* as at 10 Jun 2005 (includes amendments listed above except those in the *Dangerous Goods Safety Act 2004*)			
Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and *Gazette* 21 Mar 2006 p. 1078)
Mines Safety and Inspection Amendment Act 2008	16 of 2008	16 Apr 2008	s. 1 and 2: 16 Apr 2008 (see s. 2(a)); Act other than s. 1 and 2: 17 Apr 2008 (see s. 2(b))
Reprint 4: The *Mines Safety and Inspection Act 1994* as at 16 May 2008 (includes amendments listed above)			
Training Legislation Amendment and Repeal Act 2008 s. 55	44 of 2008	10 Dec 2008	10 Jun 2009 (see s. 2(2))
Mines Safety and Inspection Amendment Act 2009	45 of 2009	3 Dec 2009	s. 1 and 2: 3 Dec 2009 (see s. 2(a)); Act other than s. 1 and 2: 4 Dec 2009 (see s. 2(b))
Rail Safety Act 2010 Pt. 11 Div. 2	18 of 2010	28 Jun 2010	1 Feb 2011 (see s. 2(b) and *Gazette* 28 Jan 2011 p. 241)

Short title	Number and year	Assent	Commencement
Standardisation of Formatting Act 2010 s. 4	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and *Gazette* 10 Sep 2010 p. 4341)
Public Sector Reform Act 2010 s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and *Gazette* 5 Nov 2010 p. 5563)
Reprint 5: The *Mines Safety and Inspection Act 1994* as at 4 Feb 2011 (includes amendments listed above)			
Road Traffic Legislation Amendment Act 2012 Pt. 4 Div. 33	8 of 2012	21 May 2012	27 Apr 2015 (see s. 2(d) and *Gazette* 17 Apr 2015 p. 1371)
Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012 Pt. 4 Div. 3	48 of 2012	29 Nov 2012	21 Aug 2013 (see s. 2(b) and *Gazette* 20 Aug 2013 p. 3815)
Mines Safety and Inspection Amendment Act 2014 Pt. 2	33 of 2014	3 Dec 2014	6 Jun 2015 (see s. 2(b) and *Gazette* 5 Jun 2015 p. 1971)
Rail Safety National Law (WA) Act 2015 Pt. 5	21 of 2015	17 Sep 2015	2 Nov 2015 (see s. 2(b) and *Gazette* 16 Oct 2015 p. 4149)
Reprint 6: The *Mines Safety and Inspection Act 1994* as at 22 Jan 2016 (includes amendments listed above)			
Mines Safety and Inspection Amendment Act 2018	17 of 2018	7 Sep 2018	s. 1 and 2: 7 Sep 2018 (see s. 2(a)); Act other than s. 1 and 2: 3 Oct 2018 (see s. 2(b) and *Gazette* 2 Oct 2018 p. 3780)
Work Health and Safety Act 2020 Pt. 15 Div. 2 Subdiv. 1	36 of 2020	10 Nov 2020	31 Mar 2022 (see s. 2(1)(c) and SL 2022/18 cl. 2)
Safety Levies Amendment Act 2020 Pt. 2	37 of 2020	10 Nov 2020	31 Mar 2022 (see s. 2(1)(b) and SL 2022/18 cl. 2)
Rail Safety National Law Application Act 2024 s. 58	7 of 2024	26 Mar 2024	1 Oct 2024 (see s. 2(b) and SL 2024/193 cl. 2)

Other notes

[1] Footnote no longer applicable.

[2] The amendment in the *Coroners Act 1996* Sch. 1 it. 11 is not included because of an error in the reference to the provision to be amended. The amendment intended was made in the *Statutes (Repeals and Minor Amendments) Act (No. 2) 1998* s. 51.

[3] The *Courts Legislation Amendment and Repeal Act 2004* Sch. 1 cl. 100 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(10).

[4] The *Occupational Safety and Health Legislation Amendment and Repeal Act 2004* s. 115(7) reads as follows:

> **115. *Mines Safety and Inspection Act 1994* amended and saving provision**
>
> (7) The amendment made by subsection (5) does not affect the operation of section 103 of the *Mines Safety and Inspection Act 1994*, before the commencement of that subsection, in relation to members of the Mines Occupational Safety and Health Advisory Board established under the section repealed by subsection (3).

[5] The *Mines Safety and Inspection Amendment Act 2004* s. 31(2) reads as follows:

> (2) Section 97 of the *Mines Safety and Inspection Act 1994* as in force immediately before the commencement of subsection (1) applies to an offence against that Act committed before that commencement as if subsection (1) had not been enacted.

[6] The *Mines Safety and Inspection Amendment Act 2004* s. 57, 65 and 77 read as follows:

> **57. Saving provision for existing safety and health representatives**
>
> The amendments made by section 56 do not affect the continuation in office of any safety and health representative who held office under Part 5 Division 1 of the *Mines Safety and Inspection Act 1994* immediately before the commencement of that section.
>
> **65. Savings and transitional provisions for existing safety and health committees**
>
> (1) The repeal of sections 65 and 66 of the *Mines Safety and Inspection Act 1994* (the ***MSI Act***) by section 64 does not affect the status of a safety and health committee that is in existence under the MSI Act immediately before that repeal.
>
> (2) Any such committee is to be taken, after the commencement of section 64, to have been established under section 65 or 67A of the MSI Act inserted by section 64, as the case may require.

(3) If before the commencement of section 64 —

(a) a request was made in respect of a mine under section 64(1) of the MSI Act repealed by section 64; but

(b) a safety and health committee had not been established for the mine under section 65 of the MSI Act so repealed,

the duty of the employer under section 65 of the MSI Act to establish a safety and health committee for the mine lapses on that commencement.

77. Transitional provision for directions given before commencement

Sections 22, 23(1)(a)(iv), 30 and 31 of the *Mines Safety and Inspection Act 1994* continue to have effect for the purposes of a direction under section 22 of that Act given before the commencement of this Part as if sections 74, 75 and 76 had not been enacted.

[7] The *Mines Safety and Inspection Amendment Act 2004* s. 83(2) and (3) read as follows:

(2) A matter referred to a safety and health magistrate under the *Mines Safety and Inspection Act 1994* and not finally determined before the commencement of subsection (1) —

(a) may continue to be dealt with; and

(b) any order made in such a proceeding may be appealed against and enforced,

as if subsection (1) had not been enacted.

(3) A determination or decision of a safety and health magistrate made before the commencement of subsection (1) may be the subject of —

(a) an application for leave to appeal; and

(b) an appeal for which leave is granted,

under section 54B(2) of the *Occupational Safety and Health Act 1984*, as applied by the section repealed by subsection (1), as if subsection (1) had not been enacted.

[8] The *Mines Safety and Inspection Amendment Act 2004* s. 85(2) reads as follows:

> (2) An appeal brought under section 52 of the *Mines Safety and Inspection Act 1994* but not finally determined before the commencement of subsection (1), may be dealt with and determined under that section as if subsection (1) had not been enacted.

[9] The *Mines Safety and Inspection Amendment Act 2004* s. 86(2) reads as follows:

> (2) An appeal brought under section 86 of the *Mines Safety and Inspection Act 1994* but not finally determined before the commencement of subsection (1), may be dealt with and determined under that section as if subsection (1) had not been enacted.

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
apprentice	4(1)
department	4(1)
employee	4(1)
employer	4(1)
exploration operations	4(1)
inspector	4(1)
mine	4(1)
mineral	4(1)
mining operations	4(1)
principal employer	4(1)
regulator	4(1)
relevant day	4B(1)
rock	4(1)
self-employed person	4(1)
specified	104(3)
to mine	4(1)

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