

# COAL MINES REGULATION.

No. 137 of 1976.

## AN ACT to amend the Coal Mines Regulation Act, 1946-1972.

[Assented to 13th December, 1976.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Coal Mines Regulation Act Amendment Act, 1976.*

Short title  
and  
citation.

(2) In this Act the Coal Mines Regulation Act, 1946-1972 is referred to as the principal Act.

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amended  
by Act  
No. 94 of  
1972.

(3) The principal Act as amended by this Act may be cited as the Coal Mines Regulation Act, 1946-1976.

Commence-  
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 5  
amended.

3. Section 5 of the principal Act is amended—

(a) by deleting the definition “agent” and substituting the following definition—

“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; ;

(b) by adding after the definition “boy” a definition as follows—

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

(c) by adding after the definition “Minister” the following definition—

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

- (d) by deleting the definition "shaft" and substituting the following definition—

"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; ;

- (e) by adding after the definition "superintendent" the following definitions—

"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 any 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; ; and

- (f) by deleting the definition "union" and substituting the following definition—

"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 8  
amended.

4. Section 8 of the principal Act is amended—
- (a) as to paragraph (a), by deleting the words “first class certificate of competency” in lines seven and eight and substituting the words “first class mine manager’s certificate of competency”; and
  - (b) as to paragraph (c), by deleting the passage commencing with the passage “; but” in line five and ending with the passage “election.” in the last line and substituting the following passage—
    - ; but a person is not eligible for appointment as a workman’s inspector unless he is—
    - (a) the holder of a certificate of service issued under this Act as in force immediately before the coming into operation of section twelve of the Coal Mines Regulation Act Amendment Act, 1976; or
    - (b) the holder of a second class mine manager’s certificate of competency or a third class or deputy’s certificate of competency. .

Section 19  
amended.

5. Section 19 of the principal Act is amended—
- (a) by repealing subsections (1), (2) and (3) and substituting the following subsections—
    - (1) Subject to this Act, the owner of a mine shall appoint a person to be manager of the mine and shall send written notice stating the name and address of the person so appointed to the Minister and the departmental inspector of the district in which the mine is situate.

(2) The owner of a mine shall not appoint a person to be the manager—

- (a) of a mine in which men are employed underground, unless that person is the holder of a first class mine manager's certificate of competency;
- (b) of an open cut, unless that person is the holder of a first class mine manager's certificate of competency or an open cut mine manager's certificate of competency.

(3) No person shall be appointed to be the manager of more than one mine, but where a person is so appointed as the manager, nothing in this subsection prevents another person acting as superintendent of two or more mines if—

- (a) being the holder of a first class mine manager's certificate of competency, he acts as superintendent of a mine in which men are employed underground; or
- (b) being the holder of a first class mine manager's certificate of competency or an open cut mine manager's certificate of competency, he acts as superintendent of an open cut. ;

(b) by repealing subsection (4a) and re-enacting it with amendments as subsection (5) as follows—

(5) The owner of a mine shall, in respect of every mine—

- (a) where the manager is absent on leave or by reason of sickness,

appoint a person to be under manager to perform the duties of manager; and

- (b) where the under manager is absent on leave or by reason of sickness, appoint a person to perform the duties of under manager,

and every person performing the duties of a manager or under manager, as the case may be, shall have the same responsibility and shall be subject to the same liability as the person whose duties he is performing. ;

- (c) by repealing subsections (5) and (6) and substituting the following subsections—

(6) A person shall not be appointed as an under manager or to perform the duties of under manager—

- (a) in a mine in which men are employed underground, unless he is the holder of a first class mine manager's certificate of competency or a second class mine manager's certificate of competency; or

- (b) in an open cut, unless he is the holder of one of the certificates referred to in paragraph (a) of this subsection or of an open cut mine manager's certificate of competency.

(7) The owner of a mine shall, within fourteen days of the appointment, send written notice stating the name and address of every person appointed as an under manager or to perform the duties of under manager to the departmental inspector of the district in which the mine is situate. .

6. Section 20 of the principal Act is repealed and re-enacted as follows—

Section 20  
repealed  
and  
re-enacted.

20. (1) The manager of a mine shall have the control, management and direction of the mine and all the machinery and plant used in connection therewith.

Daily  
super-  
vision of  
mine by  
manager.

(2) In every mine daily personal supervision shall be exercised either by the manager or by an under manager. .

7. The principal Act is amended by adding after section 20 a section as follows—

Section 20A  
added.

20A. (1) Subject to this Act, the manager of a mine shall appoint in writing such number of deputies as are necessary for carrying out the duties of deputy prescribed by or under this Act.

Appoint-  
ment,  
qualifica-  
tions and  
duties of  
deputies.

(2) A person shall not be appointed or act as a deputy unless—

(a) he has within the last preceding five years, obtained a certificate from a legally qualified medical practitioner to the effect that his eyesight and hearing will enable him to carry out the duties prescribed by or under this Act in relation to the position of deputy in the type of mine to which he is to be appointed or in which he is so acting as deputy; and

(b) he is—

(i) if he is appointed deputy in a mine employing men underground, the holder of a first class mine manager's certificate of competency, a second class mine manager's certificate of competency or a third class or deputy's certificate of competency; or

(ii) if he is appointed deputy in an open cut, the holder of one of the certificates of competency referred to in subparagraph (i) of this paragraph or of an open cut mine manager's certificate of competency or a deputy's (open cut) certificate of competency.

(3) The costs incurred in obtaining the certificate referred to in paragraph (a) of subsection (2) of this section shall be paid by the owner.

(4) The certificate referred to in paragraph (a) of subsection (2) of this section shall be retained by the owner of the mine at the office of the mine and shall be produced on demand made by an inspector.

(5) For the purposes of this Act, a person appointed as deputy in a mine in which men are employed underground has the following statutory duties, namely—

- (a) to make inspections and examinations for the presence of gas;
- (b) to ascertain the sufficiency of ventilation;
- (c) to ascertain the state of the roof and sides;
- (d) to supervise the general duties of shotfirers;
- (e) to take such other precautions as are requisite for the safety of the mine and the persons under his charge; and
- (f) to check and record the number of persons under his charge.

(6) For the purposes of this Act, a person appointed as deputy in an open cut has the following statutory duties, namely—

- (a) to examine the state of the floor, sides, walls, roads and waste dumps;



- (b) to take such other precautions as are requisite for the safety of the open cut and of the persons under his charge;
- (c) to supervise the general duties of shotfirers; and
- (d) to check and record the number of persons under his charge.

(7) A person who is appointed deputy may be required to perform other duties that are relevant to his position in addition to the statutory duties prescribed by or under this Act, but where a departmental inspector is satisfied that the performance of those other duties prevents a deputy from carrying out his statutory duties the departmental inspector shall by written notice to the manager order that the deputy be confined to carrying out only his statutory duties or only his statutory duties and such other duties as the departmental inspector specifies in the order.

(8) Where a departmental inspector has given an order pursuant to subsection (7) of this section a manager of a mine shall not require a deputy to carry out any duties other than those specified in the order.

8. Subsection (5) of section 24 of the principal Act is amended by deleting the words "below ground" in line five and substituting the word "underground".

Section 24  
amended.

9. Section 27 of the principal Act is amended—

Section 27  
amended.

- (a) as to subsection (1), by deleting the words "below ground" in lines one and two and substituting the word "underground"; and
- (b) as to subsection (2), by deleting the words "below ground" in line two and substituting the word "underground".

Section 38  
amended.

10. Section 38 of the principal Act is amended—

(a) as to subsection (2)—

- (i) by deleting the words “fifteen cents”, in line four, and substituting the words “thirty cents”; and
- (ii) by deleting the words “eight cents”, in line five, and substituting the words “fifteen cents”;

(b) by adding after subsection (3) the following subsection—

(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. ; and

(c) as to subsection (8), by deleting the words “six months”, in line four, and substituting the words “twelve months”.

Section 40  
and heading  
repealed  
and  
re-enacted,  
and  
sections  
40A and  
40B added.

11. Section 40 of the principal Act and the heading thereto are repealed and re-enacted as follows—

Board of Examiners.

Board of  
Examiners.

40. (1) For the purposes of this Act there shall be a board known as the Board of Examiners.

(2) Subject to this Act, the Board shall consist of—

- (a) the person holding or acting in the office of State Coal Mining Engineer, who shall be chairman;
- (b) a person holding or acting in the office of senior departmental inspector; and
- (c) a person being the holder of a first class mine manager's certificate of competency who is appointed by the Minister upon the nomination of the body known as the Association of Colliery Management.

(3) Where a Board is to examine an applicant for a certificate of competency the Minister shall appoint, on the joint nomination of the body known as the Collie Combined Mining Unions Council and the body known as the Australian Collieries Staff Association, Western Australian Branch, a further person as a member of the Board for the purpose of assisting the Board in the assessment of the practical experience of the applicant.

(4) The chairman may appoint any person to be his deputy, and, any member of the Board may, with the permission of the chairman, appoint a person to be the deputy of the member so appointing him and a person appointed a deputy under this subsection is, in the event of the absence from a meeting of the person of whom he is the deputy, entitled to attend that meeting and when so attending has all the powers, functions and duties of the person of whom he is the deputy.

(5) For the purpose of completing and determining any proceedings or inquiry under this Act commenced during his term of office as member of the Board, a person who was a member of the Board immediately before the coming into operation of section eleven of the Coal Mines Regulation Act Amendment Act,

1976 may be co-opted to serve as an additional member of the Board for that purpose notwithstanding that he has ceased to hold office for other purposes.

Term of office.

40A. (1) A person appointed to be a member of the Board pursuant to paragraph (c) of subsection (2) of section forty of this Act shall hold office until removed by the Minister.

(2) A person appointed to be a member of the Board pursuant to subsection (3) of section forty of this Act shall hold office in accordance with the terms of the instrument by which he is appointed.

Meetings of the Board.

40B. (1) A meeting of the Board shall not be held for the purpose of examining the practical experience of applicants for certificates of competency under this Act unless reasonable notice of the meeting has been given to the person who is appointed as a member pursuant to subsection (3) of section forty of this Act, or if he cannot be contacted prior to the meeting, to his deputy.

(2) At a meeting of the Board a quorum is constituted by the chairman and one other member.

(3) A question arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, but in the event of an equality of votes the chairman has a casting vote in addition to his deliberative vote. .

Section 41 repealed and re-enacted.

12. Section 41 of the principal Act is repealed and re-enacted with amendments as follows—

Certificates of competency under this Act.

41. (1) Subject to this Act, the Board may issue the following certificates of competency—

(a) first class mine manager's certificate of competency;

- (b) second class mine manager's certificate of competency;
- (c) third class or deputy's certificate of competency;
- (d) open cut mine manager's certificate of competency; and
- (e) deputy's (open cut) certificate of competency.

(2) Without affecting the application of the Interpretation Act, 1918 and particularly sections fifteen and sixteen thereof, it is hereby declared that any certificate of competency or certificate of service in force under this Act as in force immediately before the coming into operation of section twelve of the Coal Mines Regulation Act Amendment Act, 1976 shall continue and have effect as if it had been issued under this Act as in force after the coming into operation of that section.

(3) A person who before the coming into operation of section twelve of the Coal Mines Regulation Act Amendment Act, 1976 was the holder of a certificate specified in column one of the table to this subsection shall for the purposes of this Act on and after the coming into operation of that section be deemed to be the holder of the certificate of competency specified opposite and corresponding to that certificate in column two of that table.

Table

Column one	Column two
first class certificate	first class mine manager's certificate of competency
second class certificate	second class mine manager's certificate of competency
third class certificate	third class or deputy's certificate of competency

Section 41A  
added.

13. The principal Act is amended by adding after section 41 a section to stand as section 41A as follows—

Mine  
manager's  
certificate  
of  
competency.

41A. A person is not entitled to a first class mine manager's certificate of competency unless—

(a) he—

- (i) has had not less than five years' practical experience of a nature acceptable to the Board in a mine in which men are employed underground, of which not less than three years has been general underground mining experience; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate of competency; or

(b) he—

- (i) has had not less than three years' practical experience in or about a mine in which men are employed underground, of which at least two years has been general underground mining experience of a nature acceptable to the Board;
- (ii) has fulfilled all the requirements for taking a degree in mining engineering at a university in a State or Territory of the Commonwealth, or a diploma of associateship in mining engineering from the School of Mines of the Western Australian Institute of Technology, or such other qualification as in the opinion of the Board is substantially equivalent to such a degree or diploma; and

- (iii) has passed the examination prescribed in relation to that certificate requiring a knowledge of coal mining practice and the mining laws of Western Australia as set forth in this Act and the regulations. .

14. The principal Act is amended by adding after section 41 a section to stand as section 41B as follows—

Section 41B added.

41B. A person is not entitled to a second class mine manager's certificate of competency unless—

Second class mine manager's certificate of competency.

(a) he—

- (i) has had not less than five years' practical experience in or about a mine in which men are employed underground, of which not less than three years has been general underground mining experience of a nature acceptable to the Board; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate of competency; or

(b) he—

- (i) has had not less than three years' practical experience in or about a mine in which men are employed underground, of which at least two years has been general underground experience of a nature acceptable to the Board;
- (ii) has fulfilled all the requirements for taking a degree in mining engineering at a University in a State or Territory of the

Commonwealth, or a diploma of associateship in mining engineering from the School of Mines of the Western Australian Institute of Technology, or such other qualification as in the opinion of the Board is substantially equivalent to such a degree or diploma; and

- (iii) has passed the examination prescribed in relation to that certificate requiring a knowledge of coal mining practice and the mining laws of Western Australia as set forth in this Act and the regulations. .

Section 41C  
added.

15. The principal Act is amended by adding after section 41 a section to stand as section 41C as follows—

Third  
class or  
deputy's  
certificate  
of  
competency.

41C. A person is not entitled to a third class or deputy's certificate of competency unless—

(a) he—

- (i) has had not less than five years' varied practical experience in a mine in which men are employed underground, of which not less than three years has been general underground mining experience of a nature acceptable to the Board; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate; or

(b) he—

- (i) has had not less than three years' practical experience in or about a mine in which men are employed underground, of which at least two years has been



general underground mining experience of a nature acceptable to the Board;

- (ii) has fulfilled all the requirements for taking a degree in mining engineering at a university in a State or Territory of the Commonwealth, or a diploma of associateship in mining engineering from the School of Mines of the Western Australian Institute of Technology, or such other qualification as in the opinion of the Board is substantially equivalent to such a degree or diploma; and
- (iii) has passed the examination prescribed in relation to that certificate requiring a knowledge of coal mining practice and the mining laws of Western Australia as set forth in this Act and the regulations. .

16. The principal Act is amended by adding after section 41 a section to stand as section 41D as follows—

Section 41D  
added.

41D. A person is not entitled to an open cut mine manager's certificate of competency unless—

Open  
cut  
mine  
manager's  
certificate  
of  
competency.

(a) he—

- (i) has had not less than three years' varied practical experience of a nature acceptable to the Board in or about an open cut, of which not less than three months has been practical experience in the use of explosives; and
- (ii) has passed the examinations prescribed by the regulations in relation to that certificate; or

(b) he—

- (i) has had not less than two years' practical experience of a nature acceptable to the Board in or about an open cut, of which not less than three months has been practical experience in the use of explosives; and
- (ii) has fulfilled all the requirements for taking—
  - (A) a degree in engineering at a university in a State or Territory of the Commonwealth; or
  - (B) a diploma in mining or engineering at a technical institute approved by the Board; or
  - (C) a diploma in surface mining granted by the Technical Education Division of the Education Department of Western Australia; or
  - (D) such other qualification as in the opinion of the Board is substantially equivalent to a degree or diploma specified in items (A) to (C) (inclusive) of this subparagraph; and
- (iii) has passed an examination prescribed in relation to that certificate requiring a knowledge of the mining laws of Western Australia as set forth in this Act and the regulations. .

17. The principal Act is amended by adding after section 41 a section to stand as section 41E as follows—

Section 41E  
added.

41E. A person is not entitled to a deputy's (open cut) certificate of competency unless he—

Deputy's  
(open  
cut)  
certificate  
of  
competency.

- (a) has had in a mine not less than three years' varied practical experience of a nature acceptable to the Board of which not less than six months has been practical experience in the use of explosives; and
- (b) has passed the examinations prescribed by the Board in relation to that certificate of competency.

18. The principal Act is amended by adding after section 41 a section to stand as section 41F as follows—

Section 41F  
added.

41F. (1) Subject to this Act, where the Board is satisfied that a person is the holder of a certificate of competency issued by—

Persons  
who  
hold  
certificates  
issued  
elsewhere.

- (a) a board of examiners established by or constituted under the laws of another State or Territory of the Commonwealth relating to coal mining; or
- (b) an authority that grants certificates of competency relating to mining after conducting examinations that are in the opinion of the Board equivalent to the examinations prescribed under this Act,

the Board may issue to that person a certificate of competency under this Act that is in the opinion of the Board equivalent to the certificate of competency held by that person.

(2) The Board shall not issue a certificate of competency to a person pursuant to subsection (1) of this section unless—

- (a) where the certificate sought is not an open cut mine manager's certificate of competency, the Board is satisfied

that the person has had experience substantially similar to that which would be required if the person were making an application under section forty-one A, forty-one B, forty-one C or forty-one E of this Act, as the case requires; and

- (b) where the certificate sought is an open cut mine manager's certificate of competency, the Board is satisfied that the person has had adequate surface mining experience which included not less than twelve months' experience in open cut coal mining. .

Sections 41G  
and 41H  
added.

19. The principal Act is amended by adding after section 41 sections to stand as section 41G and section 41H as follows—

Applicant  
to be a fit  
and  
proper  
person.

41G. Where the Board is satisfied that a person is not a fit and proper person to hold a certificate of competency under this Act the Board shall refuse to issue a certificate of competency to that person.

Applicant to  
have  
passed an  
examination  
in first aid.

41H. A person is not entitled to be issued with a certificate of competency under this Act unless he satisfies the Board that he has passed an examination in first aid conducted by a person or body approved of by the Board. .

Section 42  
amended.

20. Subsection (2) of section 42 of the principal Act is repealed and the following subsections substituted—

(2) Subject to the regulations, examinations for the issue of certificates of competency under this Act shall be conducted at such times and in such manner as is directed by the Board.

(2a) Subject to this Act, a person who has passed an examination conducted under this Act is entitled to be issued with the certificate of competency applicable to that examination. .

21. Subsection (2) of section 49 of the principal Act is amended— Section 49 amended.

- (a) by deleting the word “underground” in paragraph (f);
- (b) by deleting the words “below ground” in paragraph (j); and
- (c) by deleting the word “underground” in paragraph (zr).

22. Subsection (2) of section 60 of the principal Act is amended— Section 60 amended.

- (a) by deleting the words “forty dollars” in line four and substituting the words “five hundred dollars”;
- (b) by deleting the words “four dollars” in line five and substituting the words “one hundred dollars”; and
- (c) by deleting the words “ten dollars” in lines seven and eight and substituting the words “two hundred dollars”.

23. Section 64 of the principal Act is amended— Section 64 amended.

- (a) as to subsection (2), by deleting paragraph (b) and substituting the following paragraph—
  - (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; ; and
- (b) by adding after subsection (2) the following subsections—
  - (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 and a deputy's (open cut) certificate of competency shall prescribe examinations that are suitable for practical working miners. .

Miscellaneous  
amendments.

24. The principal Act is amended in the manner set out in the Schedule below—

SCHEDULE.

Provision Amended	Amendment
Section 27(3)	Delete the passage "overman," in lines two and three, substitute the passage "under manager,".
Section 43	Delete the passage ", overman" where occurring in each case in— <ul style="list-style-type: none"> <li>(a) line three;</li> <li>(b) line nine;</li> <li>(c) line three and line eight of paragraph (a);</li> <li>(d) line three of paragraph (b);</li> <li>(e) line one of paragraph (c).</li> </ul> Delete the words "board of examiners" in line eight, substitute the word "Board".

Delete the word "board" where occurring in—

- (a) line two and line eleven of paragraph (a);
- (b) line one of paragraph (b);
- (c) line one of paragraph (d);
- (d) line three and line five of paragraph (e); and
- (e) line two of paragraph (f),

and substitute the word "Board" in each case.

SCHEDULE—*continued.*

Provision Amended	Amendment
	Delete the word "board's" in line seven of paragraph (a) and substitute the word "Board's".
Section 44	Delete the words "board of examiners" in line one of subsection (1), substitute the word "Board".
	Delete the word "board" in line two of subsection (2), substitute the word "Board".
Section 45	Delete the passage ", overman" in line two.
	Delete the word "board" in line six, substitute the word "Board".
Section 47	Delete the passage ", overman" in line three of paragraph (3).
Section 61	Delete the passage ", overman" in lines one and two, substitute the passage ", under manager".