



Western Australia

## **Coal Mines Regulations**

Compare between:

[31 Dec 1998, 00-h0-03] and [19 May 2000, 00-i0-06]



COAL MINES REGULATION ACT 1946

## Coal Mines Regulations

### Regulations and General Rules

#### 1. Citation and Division of Regulations

- (1) These regulations may be cited as the *Coal Mines Regulations*.
- (2) These regulations are divided as follows —
  - Division I — Preliminary
  - Division II — Inspection
  - Division III — Conduct of Examinations
  - Division IV — Explosives
  - Division V — Safety and Protection
  - Division VI — Ladders and Travelling Ways
  - Division VII — Winding and Signals
  - Division VIII — Ventilation
  - Division IX — Sanitation and Hygiene
  - Division X — Change Houses
  - Division XI — Electricity in Mines
  - Division XII — Plans and Surveys.
  - Division XIII — Accident Relief Fund

Division XIV — Miscellaneous

Division XV — Trolley Wire Locomotives

*[Regulation 1 inserted by Gazette 10 October 1980 p.3513;  
repealed in Gazette 8 December 1995 p.273; revived by Act  
No. 59 of 1998 s.8.]*

*[2 to 21. Repealed in Gazette 8 December 1995 p.273.]*

*[22, 23. Repealed in Gazette 14 July 1978 p.2534.]*

*[24 to 206. Repealed in Gazette 8 December 1995 p.273.]*

**Division XIII — Accident relief fund**

*[Heading repealed in Gazette 8 December 1995 p.273; revived by Act  
No. 59 of 1998 s.8.]*

**207. Appointment of trustees by mine owners**

The trustee to be appointed by the mine owners shall be appointed by memorandum under the hand, or, in the case of an incorporated company, the seal, of a majority of the owners, and such memorandum shall be transmitted to the Minister. Should the mine owners fail to appoint a trustee within one month after notice in writing has been forwarded to them by the Inspector of Mines, by post, advising them of the vacancy on the Trust, the Minister may appoint some person to act as the representative of the mine owners on the Trust, and such person so appointed shall have the same authority and power as if he had been appointed by the mine owners.

*[Regulation 207 repealed in Gazette 8 December 1995 p.273;  
revived by Act No. 59 of 1998 s.8.]*

**208. Appointment of trustees by miners**

The trustee to be appointed by the miners shall be appointed in manner following —

An Inspector of Mines, or some other person to be nominated by the Minister, shall, by seven days' notice in writing, exhibited on each mine in the district, and by an advertisement in a newspaper circulating in the district, at least five days before the meeting, convene a meeting of miners, who, at such meeting, by a majority of miners present, shall appoint a Trustee, and the name of the person appointed shall be transmitted by the inspector or such other person as aforesaid to the Minister. Should the mine workers fail to appoint a trustee at the meeting so convened, the Minister may appoint some person to act as the representative of the mine workers on the Trust, and such person so appointed shall have the same authority and power as if he had been appointed by the mine workers.

*[Regulation 208 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

**209. Trustees of the fund**

The persons appointed as aforesaid, with the trustee appointed by the Minister, shall constitute the trustees of the fund, and their appointment shall be notified in the *Government Gazette*. Any two trustees shall constitute a quorum, and may, subject to regulation 214, operate on the trust account.

*[Regulation 209 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

**210. Accident committee**

The accident committee shall consist of five members, to be appointed by the miners at a meeting convened by an inspector for that purpose or at a meeting convened in like manner as provided for in regulation 208 for the appointment of a trustee, and the names of the persons appointed shall be transmitted by the Inspector of Mines or such other person as aforesaid to the Minister, and notified in the *Government Gazette*. Any three members of the committee shall constitute a quorum.

*[Regulation 210 repealed in Gazette 8 December 1995 p.273;  
revived by Act No. 59 of 1998 s.8.]*

**211. Term of office**

Every trustee and every member of the accident committee shall hold office for one year from the notification of his appointment in the *Government Gazette*, but shall be eligible for reappointment. Should any member of the trust, or committee, fail to attend three consecutive meetings of the trust or committee, as the case may be without having furnished to the body of which he is a member a satisfactory reason, in writing, for his non-attendance, his seat may be declared vacant, and steps duly taken to fill such vacancy.

*[Regulation 211 repealed in Gazette 8 December 1995 p.273;  
revived by Act No. 59 of 1998 s.8.]*

**212. Casual vacancies**

In the case of any vacancy in the office of any trustee or member of an accident committee by death, resignation, or otherwise, another trustee or member shall be appointed in manner aforesaid.

*[Regulation 212 repealed in Gazette 8 December 1995 p.273;  
revived by Act No. 59 of 1998 s.8.]*

**213. Accident Relief Fund Account**

All contributions to the fund shall be paid to the trustees, and shall be paid by them to the credit of a trust account, to be called the Accident Relief Fund Account, to be kept in the names of the trustees at a bank approved by the Minister. The trustees may from time to time invest any moneys standing to the credit of the trust account, in securities approved by the Minister.

*[Regulation 213 repealed in Gazette 8 December 1995 p.273;  
revived by Act No. 59 of 1998 s.8.]*

**214. Use of trust account**

All moneys withdrawn from the trust account shall be paid by the trustees to any person injured, or to the relatives of any person killed or injured, in accordance with the recommendation and with the approval of the accident committee.

*[Regulation 214 repealed in Gazette 8 December 1995 p.273;  
revived by Act No. 59 of 1998 s.8.]*

**215. Recommendations by accident committee**

In making any recommendation the accident committee shall be guided by the following rules: —

- (1) Any employee who meets with an accident arising out of or in the course of his employment shall immediately give notice of the nature and cause of the accident to the person nearest him, and as soon as practicable an official of the mine and shall within fourteen days of ceasing work as a result of such accident send or cause to be sent a notice, in writing, to the secretary of the accident committee giving full particulars as to the time and date of the accident, and the circumstances attending such accident, together with the certificates referred to in subregulation (1) and (2) of regulation 216, or the claim shall not be entertained and the secretary of the accident committee shall forthwith notify the Inspector of Mines for the district of such accident and of the nature thereof as reported to him.
- (2) Subject to the approval of the trustees first obtained, the accident committee may, in the case of an accident of so serious a nature that the employee injured has been unable to comply with the provisions of clause (1) hereof, investigate such accident and recommend accordingly.
- (3) The maximum allowances which may be paid from the fund shall be fixed from time to time by the Minister and shall relate to the following circumstances —

- (a) where disablement results from a personal injury by accident, or from a disease, for which workers compensation is received under the *Workers' Compensation Act 1912* as amended, a fortnightly sum, or a daily rate for every working day from the date of the accident, shall be paid. Such payment shall only be made and continued on the certificate of a qualified medical practitioner that the employee is unable to work.  
Where the employee attains the age of retirement during the continuance of the disablement, his right to be paid the allowance under this regulation shall thereupon determine and payment of the allowance shall cease. In the event of an employee being permanently disabled he shall, on the certificate of a qualified medical practitioner, be granted a sum not exceeding the amount fixed by the Minister for such a claim at the date of payment, in satisfaction of all claims. A person shall be deemed to be disabled when he is wholly incapacitated from attending to his ordinary occupation;
- (b) where death results from an accident or from a disease for which compensation is received under the *Workers' Compensation Act 1912* as amended and if the deceased was married —
  - (i) such fortnightly sum as is fixed from time to time by the Minister shall be payable to the widow, if any, until she remarries; and
  - (ii) such fortnightly sum as is fixed from time to time by the Minister shall be payable to each child, if any, of the deceased until such child attains the age of sixteen years or dies, which sum is, subject to subregulation (ba), to be paid



to the widow, if any, during her life, or if there is no widow, or the widow dies while any such sum is payable, to the guardian or person having the care of such child;

- (ba) if the committee considers that any allowance payable to a widow or such other person as is specified in sub-paragraph (ii) of paragraph (b) for or in respect of a child would not be or is not being properly expended or used for the benefit of the child, it may recommend to the trustees the payment of such allowance to such other person as it may think fit for the sole benefit of the child and the trustees may make such payment to such other person.

*[Regulation 215 amended by Gazettes 21 April 1950 p.917; 28 March 1952 785; 17 April 1953 p.673; 29 June 1955 p.1619; 12 October 1962 p.3444; 26 May 1965 p.1629; 10 February 1966 p.430; 2 April 1969 p.884; 21 January 1972 p.133; 30 November 1973 p.4469; 23 January 1976 p.177; 24 April 1980 p.1252; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

## **216. Notice of accident**

The notice to the secretary of the accident committee referred to in subregulation (1) of regulation 215 shall be accompanied by —

- (1) a certificate signed by the manager or some other responsible official of the mine or by the Inspector of Mines that he is satisfied that the deceased or the person disabled was at the time of the accident
  - (a) employed in or about such mine;
  - (b) travelling between his place of residence and such mine;

- (c) travelling on a journey authorized by the mine manager between his place of residence or such mine and any trade, technical or other training school that he is required, by the terms of his employment or as an apprentice, to attend; or
- (d) travelling or otherwise carrying out work associated with such mine and authorized by the mine manager;
- (2) a certificate signed by a legally qualified medical practitioner or the local coroner that the disablement or death was caused primarily by the accident referred to. In the case of disablement the nature and effects thereof shall be stated in such certificate.

*[Regulation 216 inserted by Gazette 24 April 1980 pp.1252-3; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

*[217. Repealed in Gazette 24 April 1980 p.1253.]*

**218. Examination of employee**

The committee may at any time require an employee in receipt of relief to present himself for examination to a qualified medical practitioner whom it may nominate. Such employee shall not be called upon to submit himself to further examination until after the expiration of three calendar months from the date of such examination; any expense in connection with an examination to be a charge against the fund.

*[Regulation 218 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

**219. Differences of medical opinion**

Where an employee has been examined by a qualified medical practitioner and has produced a medical certificate in support of his claim to be placed on the fund, or in support of his claim for any payment from the fund, and has been examined by a

medical practitioner nominated by the committee as provided for in regulation 218, then in the event of a diversity of opinion being expressed by such medical practitioners the Magistrate of the Local Court, on application being made to him, either by the committee or the employee, may nominate a referee, being a qualified medical practitioner, to whom such employee shall submit himself for examination, and the certificate of such referee shall be accepted as conclusive evidence as to the state of health of the employee for all purposes of the fund. The employee shall be provided with a copy of all medical certificates, or reports, other than those obtained and furnished by him, or on his behalf, within seven days of the receipt of such certificates, or reports, by the committee. Any expense in connection with an examination by the referee shall be a charge against the fund.

*[Regulation 219 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

**220. Failure to attend examination etc.**

Should an employee be called upon by the committee, under Regulation 218 to submit himself for examination to a medical practitioner, or to a referee duly appointed under Regulation 219, and refuses or neglects so to do, or in any way obstructs the same, his rights to payment from the fund shall be suspended until such examination has taken place, and shall absolutely cease thereafter, unless he submits himself for such examination within one calendar month after being required so to do.

*[Regulation 220 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

**221. Relationship with *Workers' Compensation Act 1912***

An employee shall not be entitled to receive payment from the fund for a personal injury by accident or a disease and a relative shall not be entitled to receive payment for the death of an employee killed by an accident unless compensation is payable

for that injury, disease or death under the *Workers' Compensation Act 1912* as amended.

*[Regulation 221 inserted by Gazette 24 April 1980 p.1253; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

**222. Funeral expenses**

If an employee meets with an accident which proves fatal, a sum not exceeding sixty dollars shall be granted to the widow or any near relative of such deceased employee, if previously dependent upon the deceased for support, towards defraying the funeral expenses of the deceased and in full satisfaction of all claims upon the fund.

*[Regulation 222 amended by Gazettes 15 August 1952 p.1960; 24 April 1980 p.1253; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

*[223. Repealed in Gazette 24 April 1980 p.1253.]*

**224. Employee receiving benefit not to work**

An employee, while in receipt of payment from the fund shall not engage in any kind of work until he is declared by a qualified medical practitioner to be sufficiently recovered to resume work. In the event of any employee committing a breach of this regulation his payment from the fund shall cease from the date of such breach.

*[Regulation 224 amended by Gazette 24 April 1980 p.1253; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

**225. Misconduct**

An employee misconducting himself by behaving in any manner which the committee considers may be detrimental to his recovery while in receipt of payment from the fund for any

accident shall cease to receive such payment from the time that he so misconducts himself.

*[Regulation 225 inserted by Gazette 24 April 1980 p.1253; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

**226. Reporting of misconduct**

In the event of any member of the accident committee or subscriber to the fund obtaining, or being placed in the possession of information that an employee in receipt of payment from the fund has misconducted himself by engaging in any work contrary to regulation 224, or behaving in any manner which the committee considers may be detrimental to his recovery, it shall be incumbent upon him to make a report to the members of the accident committee of the said misconduct.

*[Regulation 226 amended by Gazette 24 April 1980 p.1253; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

**227. Inquiry into misconduct**

In the event of the employee concerned requiring an inquiry to be held into the nature of, or circumstances attending the misconduct with which he is charged, the accident committee shall hold such inquiry and receive evidence bearing upon the nature and circumstances attending the alleged misconduct, or evidence rebutting the same.

*[Regulation 227 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

**228. Payment of arrears if employee exonerated**

In the event of the accident committee being satisfied that the employee so charged has exonerated himself, or that a reasonable doubt exists as to his participation in the misconduct with which he is charged, the committee shall have power to pay any arrears of payment from the fund which have accrued

since the charge was made, or any portion thereof, to the employee so charged.

*[Regulation 228 amended by Gazette 24 April 1980 p.1253; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

**229. Legal representation not permitted**

It shall not be competent for any employee so charged to be represented by any counsel or solicitor at such inquiry.

*[Regulation 229 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

**230. Increase in maximum rate of payment**

- (1) If, having regard to the state of the fund, the trustees are of the opinion that the maximum rate of payment as fixed at any time is inadequate, they may make a recommendation to the Minister for the rate to be increased.
- (2) The trustees may, if considered necessary, having regard to the state of the fund, reduce the payment to a sum below the maximum rate as fixed at any time by the Minister.

*[Regulation 230 inserted by Gazette 24 April 1980 p.1253; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

*[231. Revoked by Gazette 24 April 1980 p.1254.]*

**232. Books and accounts**

The trustees shall keep proper books of accounts showing the various items of receipt and expenditure in relation to the said account, and such books shall at all reasonable times be open to the inspection of the Inspector of Mines or other person appointed by the Minister, who may take such extracts therefrom as he may require. After the annual audit of the books and accounts of the fund, as provided in section 38,

subsection (8), of the *Coal Mines Regulation Act 1946*, the trustees shall cause to be printed sufficient copies of the balance-sheet and statement of receipts and expenditure for distribution to contributors to the fund.

*[Regulation 232 amended by Gazette 24 April 1980 p.1254; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

### **233. Disbursements**

Any actual and necessary disbursements attending the appointment of any trustee or members of the committee, or incurred by the trustees or committee in the performance of their duties, or by any individual member of the trust, or committee, in the prosecution or defence of any action which may arise through the discharge of his duty as a trustee or a member of the committee, and approved by the Minister may be paid out of the trust funds.

*[Regulation 233 repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1998 s.8.]*

### **234. Fees for committee members; committee secretary**

- (1) The accident committee may appoint a secretary at a salary to be fixed from time to time by the Minister and paid from the fund.
- (2) For attendance at each meeting of the accident committee members of the committee shall be entitled to be paid from the fund such fee as is fixed by the Minister from time to time.

*[Regulation 234 inserted by Gazette 24 April 1980 p.1254; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

### **234A. Fees for trustees; trust secretary**

- (1) The trustees may appoint a secretary for the Trust at a salary to be fixed from time to time by the Minister and paid from the fund.

- (2) For attendance at each meeting of the Trust the trustees shall be entitled to be paid from the fund such fee as is fixed by the Minister from time to time.

*[Regulation 234A inserted by Gazette 24 April 1980 p.1254; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

*[235 to 276. Repealed in Gazette 8 December 1995 p.273.]*

*[Schedules I, II and III. Deleted in Gazette 14 July 1978 p.2537.]*



**Schedule IV**

REGISTRATION OF BOYS UNDER *COAL MINES REGULATION*  
*ACT 1946\**  
SECTION 25

Total number of boys employed underground .....

Total number of boys employed above ground .....

Name	Age when first employed	Date when first employed	Employed above ground or under	When left employ-me nt	Date of attaining 19 years

\* Now further amended

*[Schedule IV repealed in Gazette 8 December 1995 p.273; revived by  
Act No. 59 of 1995 s.8.]*

*[Schedule V amended in Gazette 5 April 1974 p.1245; repealed in Gazette 8 December 1995 p.273; revived by Act No. 59 of 1995 s.8.]*

## Notes

- <sup>1.</sup> This is a compilation of the *Coal Mines Regulations* and includes the amendments referred to in the following Table.

**Compilation table**

Citation	Gazettal	Commencement
<i>Coal Mines Regulations</i>	19 Sep 1947 p. 1788-819 31 Dec 1981 p. 5430 21 Oct 1983 p. 4305 27 Jul 1990 p. 3595-7 21 Jun 1991 p. 3055 25 Jun 1993 p. 3146	19 Sep 1947
<i>Mines Safety and Inspection Regulations 1995</i>	8 Dec 1995 p. 5629-5932	9 Dec 1995 (see r. 1.2 and <i>Gazette</i> 8 Dec 1995 p. 5935)
<i>Coal Mines Legislation Amendment and Revival Act 1998</i> Pt. 3 assented to on 31 Dec 1998		31 Dec 1998 (see s. 2)
<u><a href="#">These regulations were repealed by the <i>Coal Mines Regulations Order 2000</i> as at 19 May 2000 (see <i>Gazette</i> 19 May 2000 p. 2438)</a></u>		

- <sup>2</sup> Now see the *Explosives and Dangerous Goods Act 1961*.
- <sup>3</sup> Now *Health Act 1911-1979*.
- <sup>4</sup> Now further amended.
- <sup>5</sup> Part 3 of the *Coal Mines Legislation Amendment and Revival Act 1998* (No. 59 of 1998) reads as follows —
- “

## 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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