

Western Australia

Mines Safety and Inspection Act 1994

**Mines Safety and Inspection Levy
Regulations 2010**

As at 22 Jun 2011

Version 00-b0-04

Extract from www.slp.wa.gov.au, see that website for further information

Mines Safety and Inspection Levy Regulations 2010

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Defined Terms

Western Australia

Mines Safety and Inspection Act 1994

Mines Safety and Inspection Levy Regulations 2010

Part 1 — Preliminary

1. Citation

These regulations are the *Mines Safety and Inspection Levy Regulations 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Terms used

- (1) In these regulations, unless the contrary intention appears —
 - assessment* means an assessment under regulation 10 or 12;
 - assessment officer* means a departmental officer authorised in writing by the CEO to perform the functions of an assessment officer under Part 3;
 - authorised person* means a departmental officer appointed as an authorised person under regulation 33;
 - CEO* means the chief executive officer of the department;

departmental officer means a public service officer (as defined in the *Public Sector Management Act 1994* section 3(1)) in the department;

initial levy means the levy referred to in regulation 4;

initial levy period means the period commencing on 1 May 2010 and ending on 31 May 2010;

levy means the initial levy or the levy referred to in regulation 7, as the case requires;

notice means —

- (a) a notice of assessment issued under regulation 11(1)(b) or 13(1)(b); or
- (b) a notice of reassessment issued under regulation 15(2)(c); or
- (c) a notice of adjustment issued under regulation 25(2)(c);

number of assessed hours has the meaning given in subregulation (2);

quarter means a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April but does not include a quarter that commences before 1 July 2010;

reassessment means a reassessment under regulation 14(1);

worker means an individual who for remuneration carries out work at a mine in the course of mining operations (whether under a contract of employment, a contract for services or other arrangement) but does not include a student gaining work experience.

- (2) For the purposes of these regulations, the number of assessed hours in respect of a mine for a period is the number of hours worked at the mine by workers in the period —
 - (a) as assessed under regulation 10 or 12; or
 - (b) as reassessed under regulation 14(1); or
 - (c) as determined under regulation 24(2)(b).

Part 2 — Levy

Division 1 — May 2010

4. Initial levy imposed

A levy is imposed in respect of a mine for the initial levy period if the number of assessed hours exceeds 1 666.7.

5. Amount of initial levy

The amount of initial levy payable in respect of a mine is the amount (in dollars) equal to L in the formula —

$$L = R \times H$$

where —

R is \$0.75; and

H is the number of assessed hours for the initial levy period.

6. Person liable to pay initial levy

The person liable to pay the initial levy in respect of a mine is —

- (a) the person who is the principal employer at the mine at the end of the initial levy period; or
- (b) if there is no principal employer at the mine at the end of the initial levy period, the person who was the last principal employer in the initial levy period.

Division 2 — July 2010 onwards

7. Levy imposed

A levy is imposed in respect of a mine for each quarter in which the number of assessed hours exceeds 5 000.

8. Amount of levy

The amount of levy payable in respect of a mine for a quarter is the amount (in dollars) equal to L in the formula —

$$L = R \times H$$

where —

H is the number of assessed hours for the quarter; and

R is —

(a) for a quarter that ends on or before
30 June 2011 — \$0.125;

(b) for a quarter that begins on or after
1 July 2011 — \$0.180.

[Regulation 8 amended in Gazette 21 Jun 2011 p. 2250.]

9. Person liable to pay levy

The person liable to pay the levy in respect of a mine for a quarter is —

(a) the person who is the principal employer at the mine at the end of the quarter; or

(b) if there is no principal employer at the mine at the end of the quarter, the person who was the last principal employer in that quarter.

Part 3 — Assessing the levy

Division 1 — Assessing the May 2010 levy

10. Assessment officer to assess hours worked in initial levy period

After the end of the initial levy period an assessment officer must, in respect of a mine, assess the number of hours worked at the mine by workers in the initial levy period having regard to —

- (a) the information contained in the report given in respect of the mine under regulation 30; and
- (b) such other relevant information as may be available to the assessment officer, including information obtained by an authorised person exercising powers under Part 7 Division 2.

11. Notice of assessment of initial levy

- (1) If the number of assessed hours in respect of a mine for the initial levy period exceeds the number of hours specified in regulation 4, the assessment officer must —
 - (a) determine the amount of initial levy payable in accordance with regulation 5; and
 - (b) issue a written notice of assessment; and
 - (c) serve it on the person who is liable under regulation 6 to pay the initial levy.
- (2) The notice of assessment must specify the following —
 - (a) the day on which the notice was issued;
 - (b) the number of assessed hours for the initial levy period;
 - (c) the amount of initial levy payable;
 - (d) the day on which the initial levy is payable.

- (3) The day referred to in subregulation (2)(d) must not be earlier than 30 days after the day specified in the notice of assessment as the day on which the notice was issued.

Division 2 — Assessing the levy July 2010 onwards

12. Assessment officer to assess hours worked in each quarter

After the end of each quarter an assessment officer must, in respect of a mine, assess the number of hours worked at the mine by workers in the quarter having regard to —

- (a) the information contained in the monthly reports given in respect of the mine for the quarter under regulation 32; and
- (b) such other relevant information as may be available to the assessment officer, including information obtained by an authorised person exercising powers under Part 7 Division 2.

13. Notice of assessment of levy

- (1) If the number of assessed hours in respect of a mine for a quarter exceeds the number of hours specified in regulation 7, the assessment officer must —
- (a) determine the amount of levy payable in accordance with regulation 8; and
 - (b) issue a written notice of assessment; and
 - (c) serve it on the person who is liable under regulation 9 to pay the levy.
- (2) The notice of assessment must specify the following —
- (a) the day on which the notice was issued;
 - (b) the number of assessed hours for the quarter;
 - (c) the amount of levy payable;
 - (d) the day on which the levy is payable.

- (3) The day referred to in subregulation (2)(d) must not be earlier than 30 days after the day specified in the notice of assessment as the day on which the notice was issued.

Division 3 — Reassessments

14. Assessment officer may reassess hours worked

- (1) An assessment officer may reassess the number of hours worked at a mine by workers in a period if it appears to the assessment officer that the assessment of those hours (the *original assessment*) is or may be incorrect for any reason.
- (2) A reassessment may increase or decrease the number of hours originally assessed or determine that those hours stand unchanged.
- [(3) deleted]*
- (4) A reassessment may be made whether or not any amount of a levy has been paid in relation to the original assessment or any earlier reassessment.
- (5) A reassessment cannot be made more than 2 years after the original assessment was made.

[Regulation 14 amended in Gazette 21 Jun 2011 p. 2246.]

15. Notice of reassessment of levy

- (1) Subregulation (2) applies if, on a reassessment —
- (a) the number of assessed hours under the original assessment is decreased or increased; and
 - (b) the number of assessed hours as reassessed exceeds the number of hours specified under regulation 4 or 7 for the period.
- (2) The assessment officer must —
- (a) determine —

- (i) the amount of levy payable in accordance with regulation 5 or 8; and
 - (ii) the amount of any penalty payable under regulation 18;
 - and
 - (b) determine the amount that is owing or is to be refunded having regard to —
 - (i) any amount of levy already paid in relation to the original assessment and any earlier reassessment; and
 - (ii) any amount of penalty already paid under regulation 18;
 - and
 - (c) issue a written notice of reassessment; and
 - (d) serve it on the person who is liable under regulation 6 or 9 to pay the levy.
- (3) The notice of reassessment must specify the following —
 - (a) the day on which the notice was issued;
 - (b) the number of assessed hours (as reassessed);
 - (c) the amount of levy payable;
 - (d) if the amount of the levy payable is increased —
 - (i) any amount of levy payable in accordance with the original assessment or any earlier reassessment, that is unpaid; and
 - (ii) any additional amount of levy payable as a consequence of the reassessment, and the day on which the amount is payable; and
 - (iii) any amount of penalty payable under regulation 18 that is owing;
 - (e) if the amount of the levy payable is decreased —
 - (i) any amount of levy payable in accordance with the original assessment or any earlier

reassessment, that is unpaid (after taking into account the reassessment); and

- (ii) the amount of any refund; and
 - (iii) any amount of penalty payable under regulation 18 that is owing (after taking into account the reassessment).
- (4) The day referred to in subregulation (3)(d)(ii) must not be earlier than 30 days after the day specified in the notice of reassessment as the day on which the notice was issued.
- (5) If an amount of levy in excess of the amount referred to in subregulation (3)(c) has been paid by a person, the assessment officer must cause —
- (a) the amount of the excess; and
 - (b) any amount of penalty paid under regulation 18 in relation to the amount of the excess,

to be refunded to the person.

[Regulation 15 amended in Gazette 21 Jun 2011 p. 2246.]

16. Notice of withdrawal of levy

- (1) Subregulation (2) applies if —
- (a) on a reassessment, the number of assessed hours under the original assessment is decreased; and
 - (b) the number of assessed hours as reassessed is such that a levy cannot be imposed in respect of the mine for the period under regulation 4 or 7.
- (2) The assessment officer must —
- (a) notify the person who would have been liable under regulation 6 or 9 to pay the levy in relation to the original assessment; and
 - (b) cause to be refunded to the person —

Mines Safety and Inspection Levy Regulations 2010

Part 3 Assessing the levy

Division 3 Reassessments

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- (i) any amount of levy paid by the person in relation to the original assessment or an earlier reassessment; and
- (ii) any amount of penalty paid under regulation 18.

Part 4 — Payment and recovery

17. When levy becomes due and payable

- (1) An amount of levy becomes due and payable on the day specified in the notice issued in respect of that amount as the day on which the levy is payable (the *due date*).
- (2) A levy is payable to the State.

18. Penalty for overdue amounts

- (1) If an amount of levy imposed in respect of a period that ended before 1 July 2011 remains unpaid after the due date, there is payable to the State by way of penalty, in addition to the amount of levy, an amount equal to 20% of the amount of levy outstanding on the day after the due date.
- (2) If an amount of levy imposed in respect of a quarter that commenced on or after 1 July 2011 remains unpaid after the due date, there is payable to the State by way of penalty, in addition to the amount of levy, an amount equal to 20% per annum (pro rata) of the amount of the levy outstanding.

[Regulation 18 inserted in Gazette 21 Jun 2011 p. 2247.]

19. Recovery of unpaid amounts

The following amounts may be recovered by the CEO in a court of competent jurisdiction as debts due to the State —

- (a) an amount of levy that remains unpaid after the due date;
- (b) an amount that remains unpaid under regulation 18.

Part 5 — Objections and reviews

[Heading amended in Gazette 21 Jun 2011 p. 2247.]

20. Term used: reviewer

In this Part —

reviewer means —

- (a) the CEO; or
- (b) a departmental officer authorised in writing by the CEO to perform the functions of a reviewer under this Part.

21. Right to object

A person who is liable to pay a levy in respect of a mine for a period may, in accordance with this Part, object to an assessment or reassessment of the number of hours worked at the mine by workers in the period.

22. Form of objection

An objection must be made to the CEO and must —

- (a) be in writing; and
- (b) identify the person making the objection; and
- (c) attach a copy of the notice relating to the assessment or reassessment the subject of the objection; and
- (d) give details of the grounds of the objection.

23. Time for lodging objection

An objection must be served on the CEO within 28 days after the date the notice was served.

24. Consideration and determination of objection

- (1) A reviewer must consider and determine an objection within 28 days of the objection being served on the CEO.
- (2) In determining an objection, a reviewer may —

- (a) decide that the number of assessed hours in respect of a mine for a period is to stand unchanged; or
 - (b) decide to decrease or increase the number of assessed hours.
- (3) After determining an objection, a reviewer must serve on the person making the objection written notice of the reviewer's determination and a statement of the reasons for that determination.

[Regulation 24 amended in Gazette 21 Jun 2011 p. 2247.]

25. Notice of adjusted levy following objection

- (1) Subregulation (2) applies if —
- (a) in determining an objection, a reviewer decides that the number of assessed hours in respect of a mine for a period is to be decreased or increased; and
 - (b) because of that decision, the number of assessed hours exceeds the number of hours specified in regulation 4 or 7.
- (2) The reviewer must —
- (a) determine —
 - (i) the amount of levy payable in accordance with regulation 5 or 8; and
 - (ii) the amount of any penalty payable under regulation 18;and
 - (b) determine the amount that is owing or is to be refunded having regard to —
 - (i) any amount of levy already paid in relation to an assessment or reassessment; and
 - (ii) any amount of penalty already paid under regulation 18;and

- (c) issue a written notice of adjustment; and
 - (d) serve it on the person who is liable under regulation 6 or 9 to pay the levy.
- (3) The notice of adjustment must specify the following —
- (a) the day on which the notice was issued;
 - (b) the number of assessed hours (as decided by the reviewer under regulation 24(2)(b));
 - (c) the amount of levy payable;
 - (d) if the amount of the levy payable is increased —
 - (i) any amount of levy payable in accordance with the original assessment or any earlier reassessment, that is unpaid; and
 - (ii) any additional amount of levy payable as a consequence of the reassessment, and the day on which the amount is payable; and
 - (iii) any amount of penalty payable under regulation 18 that is owing;
 - (e) if the amount of the levy payable is decreased —
 - (i) any amount of levy payable in accordance with the original assessment or any earlier reassessment, that is unpaid (after taking into account the reassessment); and
 - (ii) the amount of any refund; and
 - (iii) any amount of penalty payable under regulation 18 that is owing (after taking into account the reassessment).
- (4) The day referred to in subregulation (3)(d)(ii) must not be earlier than 30 days after the day specified in the notice of adjustment as the day on which the notice was issued.
- (5) If an amount of levy in excess of the amount referred to in subregulation (3)(c) has been paid by a person, the reviewer must cause —

- (a) the amount of the excess; and
- (b) any amount of penalty paid under regulation 18 in relation to the amount of the excess,

to be refunded to the person.

[Regulation 25 amended in Gazette 21 Jun 2011 p. 2247-8.]

26. Notice of withdrawal of levy following objection

- (1) Subregulation (2) applies if —
 - (a) in determining an objection, a reviewer decides that the number of assessed hours in respect of a mine for a period is to be decreased; and
 - (b) because of that decision, a levy cannot be imposed in respect of the mine for the period under regulation 4 or 7.
- (2) The reviewer must —
 - (a) notify the person who would have been liable under regulation 6 or 9 to pay the levy in relation to the assessment or reassessment; and
 - (b) cause to be refunded to the person —
 - (i) any amount of levy paid by the person in relation to the assessment or reassessment; and
 - (ii) any amount of penalty paid under regulation 18.

27. Liability to pay levy not affected by objection

A person's liability to pay —

- (a) an amount of levy; or
- (b) an amount of penalty under regulation 18,

is not suspended or deferred by the making of an objection.

28. Review of determinations of objections

- (1) A person who is liable to pay a levy in respect of a mine for a period and is dissatisfied with a determination under regulation 24 may apply to the State Administrative Tribunal for a review of the determination.
- (2) An application for review cannot be made more than 42 days after the day on which notice of the determination under regulation 24 is served on the person.
- (3) The State Administrative Tribunal may extend the period referred to in subregulation (2), before or after it has expired, if the person shows that there are reasonable grounds for doing so.
- (4) Regulations 25 and 26 apply in relation to a decision of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004* section 29(3)(b) or (c)(i), to the extent relevant and to the extent consistent with the decision.
- (5) Subregulation (4) does not limit the *State Administrative Tribunal Act 2004* section 29.

[Regulation 28 inserted in Gazette 21 Jun 2011 p. 2248.]

Part 6 — Record keeping and provision of information

Division 1 — May 2010

29. Records in relation to workers: initial levy period

- (1) The principal employer at a mine must make a record of the following —
- (a) the name of each worker who works at the mine in the initial levy period;
 - (b) the number of hours worked by each of those workers;
 - (c) the total number of hours worked at the mine by workers in the initial levy period.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

- (2) A person must not make an entry in a record under subregulation (1) that the person knows is false or misleading in a material particular.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

- (3) If there is a change in the identity of the principal employer at a mine, a person who made a record under subregulation (1) while the person was the principal employer must provide a copy of the record to the new principal employer.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

- (4) If there is a change in the identity of the principal employer at a mine, a person who obtained a copy of a record under subregulation (3) while the person was the principal employer

must provide a copy of the record to the new principal employer.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

(5) A person who —

- (a) makes a record under subregulation (1); or
- (b) obtains a copy of a record under subregulation (3) or (4),

must keep the record or the copy for at least 5 years after the end of the initial levy period.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

30. Report in relation to workers: initial levy period

(1) A person who is the principal employer at a mine at the end of the initial levy period must, within 15 days after the end of the period, give a report to the CEO specifying the total number of hours worked at the mine by workers in the period.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

(2) If there is no principal employer at the mine at the end of the initial levy period, the person who was the last principal employer in the period must comply with subregulation (1).

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

Division 2 — July 2010 onwards

31. Records in relation to workers

- (1) This regulation applies on and after 1 July 2010.
- (2) The principal employer at a mine must make a record of the following —
 - (a) the name of each worker who works at the mine;
 - (b) the number of hours worked by each of those workers;
 - (c) the total number of hours worked at the mine by workers in each month.

Penalty:

- (a) for an individual — a fine of \$5 000;
 - (b) for a body corporate — a fine of \$25 000.
- (3) A person must not make an entry in a record under subregulation (2) that the person knows is false or misleading in a material particular.

Penalty:

- (a) for an individual — a fine of \$5 000;
 - (b) for a body corporate — a fine of \$25 000.
- (4) If there is a change in the identity of the principal employer at a mine, a person who made a record under subregulation (2) while the person was the principal employer must provide a copy of the record to the new principal employer.

Penalty:

- (a) for an individual — a fine of \$5 000;
 - (b) for a body corporate — a fine of \$25 000.
- (5) If there is a change in the identity of the principal employer at a mine, a person who obtained a copy of a record under subregulation (4) while the person was the principal employer must provide a copy of the record to the new principal employer.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

(6) A person who —

- (a) makes a record under subregulation (2); or
- (b) obtains a copy of a record under subregulation (4) or (5),

must keep the record or the copy for at least 5 years after the end of the quarter in which the month to which the record relates occurs.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

32. Monthly report in relation to workers

(1) This regulation applies on and after 1 July 2010.

(2) A person who is the principal employer at a mine at the end of a month must, within 15 days after the end of the month, give a report to the CEO specifying the total number of hours worked at the mine by workers in the month.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

(3) If there is no principal employer at the mine at the end of the month, the person who was the last principal employer in that month must comply with subregulation (2).

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

Part 7 — Investigation and enforcement

Division 1 — Authorised persons

33. Appointment of authorised persons

The CEO may, in writing, appoint a departmental officer to be an authorised person for the purpose of investigating and enforcing compliance with these regulations.

34. CEO has powers of authorised person

In addition to performing the functions conferred on the CEO under these regulations, the CEO may exercise the powers, and perform the functions, of an authorised person.

35. Identity cards

- (1) The CEO is to issue an identity card to each authorised person.
- (2) An identity card must contain —
 - (a) the authorised person's name; and
 - (b) a statement to the effect that the person identified by the card is an authorised person for the purpose of these regulations; and
 - (c) a photograph of the person.
- (3) A person must, within 14 days of ceasing to be an authorised person, return the person's identity card to the CEO unless the person has a reasonable excuse.
Penalty: a fine of \$5 000.
- (4) An authorised person must carry his or her identity card at all times when exercising powers or performing functions as an authorised person.

36. Production or display of identity card

- (1) An authorised person may exercise a power in relation to another person only if —
 - (a) the authorised person first produces the authorised person's identity card for the other person's inspection; or
 - (b) the authorised person has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subregulation (1), the authorised person must produce the identity card for inspection by the other person at the first reasonable opportunity.

Division 2 — Investigations

37. Investigation powers of authorised persons

- (1) In this regulation —

investigation purposes means purposes connected with investigating and enforcing compliance with these regulations, including the following purposes —

 - (a) obtaining information relevant to determining an amount payable under these regulations;
 - (b) auditing records required to be kept under these regulations;
 - (c) obtaining evidence of a suspected offence under these regulations.

place means a mine or any other place, other than a place in use as a residence.

- (2) For investigation purposes, an authorised person may do any or all of the following —
 - (a) during ordinary business hours enter, inspect and examine any place and examine anything at the place

- (but must do so in such manner as not unnecessarily to impede or obstruct the working of the place);
- (b) when entering a place, take with the authorised person such equipment and materials as the authorised person considers appropriate;
 - (c) conduct such examination and inquiry as the authorised person considers is necessary;
 - (d) provide information to any person;
 - (e) take possession of any document or thing the authorised person considers relevant for further examination or for use as evidence;
 - (f) require the production of, examine, and take copies of or extracts from, any document the authorised person considers relevant;
 - (g) in accordance with subregulations (3) and (4), interview any person who the authorised person has reasonable grounds to believe is able to provide relevant information;
 - (h) require the attendance of any person for an interview under paragraph (g);
 - (i) require any person who the authorised person interviews under paragraph (g) to answer any question put to the person and, if the authorised person considers it appropriate, to verify any such answer by statutory declaration;
 - (j) require any person to state his or her name and address;
 - (k) require any person at a place to give such assistance to the authorised person as the authorised person considers necessary for the performance of the authorised person's functions under this Part.
- (3) An interview referred to in subregulation (2)(g) must be conducted in private if —
- (a) the authorised person considers that to be appropriate; or

- (b) the person to be interviewed so requests,
but this regulation does not limit the operation of
subregulation (5).
- (4) Subregulation (3) may be invoked during an interview by —
 - (a) the authorised person; or
 - (b) the person being interviewed,in which case that subregulation applies to the remainder of the
interview.
- (5) In exercising any power under this regulation, an authorised
person may be accompanied by any other person whose
assistance the authorised person considers necessary, and that
person may do such things as are necessary to assist the
authorised person in the performance of his or her functions,
and anything so done is deemed to have been done by the
authorised person.
- (6) Where an authorised person intends to enter, inspect and
examine a place under subregulation (2)(a), the authorised
person must, where practicable, give notice of his or her
intention to do so to a person apparently in a position of
authority at the place.

38. Compliance with requirement of authorised person

A person must not without reasonable excuse contravene a
requirement of an authorised person under this Part.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

39. Obstruction

A person must not hinder or obstruct an authorised person in the
performance of functions under this Part.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

Part 8 — Miscellaneous

40. False or misleading information

A person, in giving a report under regulation 30 or 32 or in purporting to comply with a requirement of an authorised person under Part 7, must not —

- (a) make a statement the person knows is false or misleading in a material particular; or
- (b) make a statement that is false or misleading in a material particular, with reckless disregard as to whether or not the statement is false or misleading in a material particular; or
- (c) provide, or cause to be provided, information the person knows is false or misleading in a material particular; or
- (d) provide, or cause to be provided, information that is false or misleading in a material particular with reckless disregard as to whether the information is false or misleading in a material particular.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

41. Self incriminating information

Any information given by an individual in a report under regulation 30 or 32, or any statement made, document produced or information given by an individual in response to a requirement of an authorised person under Part 7, is not admissible in evidence in a prosecution for an offence against the individual, other than an offence under regulation 40, if, at the time the individual gave the report, made the statement, produced the document or gave the information, the individual objected to doing so on the ground that it might tend to incriminate that individual.

42. Protection from liability

- (1) An action in tort does not lie against a person for anything the person has done, in good faith, in the performance or purported performance of a function under these regulations.
- (2) The protection given by subregulation (1) applies even though the thing done as described in that subregulation may have been capable of being done whether or not these regulations had been enacted.
- (3) Despite subregulation (1), the State is not relieved of any liability that it might have for another person having done anything as described in that subregulation.
- (4) In this regulation, a reference to the doing of anything includes a reference to an omission to do anything.

43. Confidentiality

A person who is or has been engaged in the performance of functions under these regulations must not, directly or indirectly, record, disclose or make use of information obtained in the course of performing those functions except —

- (a) for the purpose of, or in connection with, performing functions under these regulations; or
- (b) as required or allowed by these regulations or another written law; or
- (c) for the purpose of the investigation of a suspected offence under these regulations or the conduct of proceedings against a person for an offence under these regulations; or
- (d) for the purpose of any other legal proceeding arising out of the administration of these regulations; or
- (e) with the written consent of the person to whom the information relates.

Penalty: a fine of \$5 000.

Notes

¹ This is a compilation of the *Mines Safety and Inspection Levy Regulations 2010* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Mines Safety and Inspection Levy Regulations 2010</i>	23 Apr 2010 p. 1545-77	r. 1 and 2: 23 Apr 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Apr 2010 (see r. 2(b))
<i>Mines Safety and Inspection Levy Amendment Regulations 2011</i>	21 Jun 2011 p. 2245-9	r. 1 and 2: 21 Jun 2011 (see r. 2(a)); r. 5-11: 22 Jun 2011 (see r. 2(c))
<i>Mines Safety and Inspection Levy Amendment Regulations (No. 2) 2011</i>	21 Jun 2011 p. 2250	r. 1 and 2: 21 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 22 Jun 2011 (see r. 2(b))

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Mines Safety and Inspection Levy Regulations 2011</i> r. 4, 12 and 13 ²	21 Jun 2011 p. 2245-9	1 Jul 2011 (see r. 2(b))

² On the date as at which this compilation was prepared, the *Mines Safety and Inspection Levy Regulations 2011* r. 4, 12 and 13 had not come into operation. They read as follows:

4. Regulation 3 amended

(1) In regulation 3(1) insert in alphabetical order:

its port has the meaning given in the *Port Authorities Act 1999* section 3(1) in the definition of *port*;

port authority has the meaning given in the *Port Authorities Act 1999* section 3(1);

- (2) In regulation 3(1) in the definition of *worker* delete “include a student gaining work experience.” and insert:

include —

- (a) in relation to a month — an individual who has worked less than 40 hours in the month; and
 - (b) a student gaining work experience.
- (3) After regulation 3(2) insert:
- (3) In the definition of *worker*, the reference to mining operations does not include mining operations carried on by a port authority at its port.

12. Regulation 29 amended

- (1) Delete regulation 29(3) and (4).
- (2) In regulation 29(5):
- (a) in paragraph (a) delete “makes” and insert:

made

- (b) delete paragraph (b) and insert:
 - (b) obtained a copy of a record under subregulation (3) or (4), as in force before 1 July 2011,
- (c) delete “period.” and insert:

period, whether or not the person remains the principal employer at the mine.

13. Regulation 31 amended

- (1) Delete regulation 31(2) and insert:

- (2) The principal employer at a mine must keep records, which may be records created for another purpose, sufficient to show the total number of hours worked at the mine by workers in each month.

Penalty:

- (a) for an individual — a fine of \$5 000;
 - (b) for a body corporate — a fine of \$25 000.
- (2) In regulation 31(3) delete “under” and insert:
- created for the purposes of
- (3) Delete regulation 31(4), (5) and (6) and insert:
- (4) A person obliged to keep records under subregulation (2) must keep the records or copies for at least 5 years after the end of the quarter to which they relate, whether or not the person remains the principal employer at the mine.

Penalty:

- (a) for an individual — a fine of \$5 000;
- (b) for a body corporate — a fine of \$25 000.

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)
assessment.....	3(1)
assessment officer	3(1)
authorised person	3(1)
CEO	3(1)
departmental officer	3(1)
due date	17(1)
initial levy	3(1)
initial levy period	3(1)
investigation purposes.....	37(1)
levy.....	3(1)
notice.....	3(1)
number of assessed hours.....	3(1)
original assessment	14(1)
place	37(1)
quarter	3(1)
reassessment.....	3(1)
reviewer	20
worker	3(1)