

Mines Inspection Amendment Act 1998

Note:

The Act is to be repealed on the commencement of sec 191 of the *Mine Health and Safety Act 2004 No 74*.

Long Title

An Act to amend the *Mines Inspection Act 1901* to make further provision with respect to the appointment of managers at mines (other than coal and shale mines) and the safety of persons at those mines; to amend the *Mines Inspection General Rule 1994* and the *Defamation Act 1974* consequentially; and for other purposes.

1 Name of Act

This Act is the *Mines Inspection Amendment Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Mines Inspection Act 1901 No 75

The *Mines Inspection Act 1901* is amended as set out in Schedule 1.

4, 5 (Repealed)

Schedule 1 Amendment of Mines Inspection Act 1901

(Section 3)

[1]-[19] (Repealed)

[20] Part 2, Divisions 2A and 2B

Insert after section 18A:

Division 2A – Maintenance of competencies by holders of certificates of competency as production manager

18B Production manager to undertake training to maintain competencies

(1) This section applies to a person who:

- (a) holds a certificate of competency as production manager, and
- (b) is the production manager of a mine.

(2) Any person to whom this section applies must undertake the training prescribed by the general rules to ensure that production managers maintain the competencies required to discharge the duties of a production manager. Maximum penalty: 20 penalty units.

(3) Any person to whom this section applies must:

- (a) keep the records prescribed by the general rules of any training undertaken by the person for the purposes of this section, and
- (b) make available, on request, any such record for inspection by an inspector.

Maximum penalty: 20 penalty units.

(4) The Chief Inspector may, by written notice, require any person to whom this section applies to provide (in the manner, and within the time, specified in the notice) evidence that the person has maintained the competencies required to discharge the duties of a production manager.

(5) The Chief Inspector may, by written notice, require any person to whom this section applies to undertake such additional training as may be specified in the notice (within the time specified in the notice) if the Chief Inspector is of the opinion that the person requires the additional training to maintain the competencies required to discharge the duties of a production manager.

(6) A person must not fail, without reasonable excuse, to comply with a notice given to the person under this section. Maximum penalty (subsection (6)): 20 penalty units.

18C Production manager to provide evidence of competencies after absence

(1) This section applies to a person who:

(a) holds a certificate of competency as production manager, and

(b) has not performed the duties of a production manager for 10 years (or, if another period is prescribed by the general rules, that other period).

(2) Any person to whom this section applies must not exercise the functions of a production manager without the approval in writing of the Chief Inspector.

Maximum penalty: 20 penalty units.

(3) Application for an approval referred to in subsection (2) is to be made in writing to the Chief Inspector.

(4) The Chief Inspector must not give an approval referred to in subsection (2) unless satisfied that the person concerned is competent to discharge the duties of a production manager.

(5) The Chief Inspector may, by written notice, require any person who has applied for an approval referred to in subsection (2) to provide (in the manner, and within the time, specified in the notice) evidence that the person is competent to discharge the duties of a production manager.

(6) The Chief Inspector may, by written notice, require any person who has applied for an approval referred to in subsection (2) to undertake such additional training as may be specified in the notice (within the time specified in the notice) if the Chief Inspector is of the opinion that the person requires the additional training to discharge the duties of a production manager competently.

18D Exemptions

(1) The Chief Inspector may, by written notice to a person, exempt the person from the operation of all or any of the provisions of this Division.

(2) An exemption:

(a) may be given unconditionally or subject to conditions, and

(b) if subject to conditions, has effect only while the conditions are complied with.

(3) The Chief Inspector may, by written notice, vary or revoke an exemption under this section.

Division 2B – Shotfirers

18E Blasting operations to be undertaken by qualified persons

(1) A person must not undertake blasting operations at a mine unless the person is a shotfirer. Maximum penalty: 20 penalty units.

(2) The general manager of a mine must ensure that any person who undertakes blasting operations at the mine is a shotfirer. Maximum penalty: 20 penalty units.

(3) Subsections (1) and (2) do not apply to the carrying out of blasting operations:

(a) by a person who is, or belongs to a class of persons, authorised by the general rules to carry out blasting operations, or

(b) of a class or classes prescribed by the general rules.

18F Board of examiners for shotfirers

(1) The Minister is to appoint fit persons to act as a board of examiners of shotfirers.

(2) The board of examiners of shotfirers may hold examinations and examine applicants for certificates of competency as shotfirers.

(3) The Minister may make rules that are to be observed by the board of examiners of shotfirers for or with respect to the following:

- (a) regulating the proceedings of the board,
- (b) prescribing the places and times of holding examinations,
- (c) prescribing the remuneration of members of the board,
- (d) prescribing the fee for an examination,
- (e) regulating the conduct of examinations,
- (f) prescribing the qualifications of applicants for examination.

(4) Rules made under subsection (3) may be made so as to apply differently in respect of different classes of blasting operations or any other matter specified in the rules.

18G Grant of certificates of competency as shotfirers The Minister is to grant a certificate of competency as shotfirer to an applicant who is reported by the board of examiners of shotfirers to have satisfactorily passed the requisite examination conducted by the board.

18H Certificates granted outside New South Wales

(1) Any certificate of competency as shotfirer granted by any duly constituted and recognised authority outside New South Wales may be approved by the board of examiners of shotfirers if the holder produces the certificate and gives satisfactory evidence to the board of the holder's sobriety, general good conduct and bona fides.

(2) Every such certificate so approved is taken to be equivalent in all respects to a certificate of competency as shotfirer and the holder may be registered on payment of such fee as the Minister may approve.

18I Form of certificates

(1) A certificate of competency as shotfirer must be in such form as the Minister may direct.

(2) Each certificate must specify the name, and the place and date of birth, of the person to whom the certificate is granted.

18J Inspector may grant shotfirers' permits

(1) On application in writing to an inspector and payment of such fee as the Minister may approve, the inspector may grant a shotfirer's permit to a person who, in the opinion of the inspector, is appropriately qualified to carry out blasting operations at a mine.

(2) A shotfirer's permit is subject to such conditions as are specified in the permit and, if subject to conditions, has effect only while the conditions are complied with.

(3) An inspector may, by written notice, vary or cancel a shotfirer's permit.

(4) A person whose shotfirer's permit is varied or cancelled under subsection (3) may apply in writing to the Director-General, within 4 weeks of receiving notice that the permit has been varied or cancelled, for a review of the decision. The decision of the Director-General on the matter is final.

(5) The Director-General is to give written notice as soon as possible to the person concerned of the Director-General's decision under subsection (4).

(6) A person who is the holder of a shotfirer's permit must return the permit to the inspector for the area in which the mine concerned is located:

- (a) within one month of ceasing to carry out blasting operations at the mine--for cancellation, or
- (b) not later than 4 weeks after receiving notice that the permit has been varied or cancelled if the person has not applied for a review under subsection (4)--for the permit to be endorsed to show the variation or for

cancellation, as the case requires, or
(c) immediately after receiving notice that the Director-General has confirmed the decision of the Chief Inspector to vary or cancel the permit-for the permit to be endorsed to show the variation or for cancellation, as the case requires.

Maximum penalty (subsection (6)): 5 penalty units.

18K Register of certificates A register of the holders of certificates of competency as shotfirer, and of certificates approved by the board of examiners of shotfirers, must be kept by such person and in such manner as the Minister may direct.

[21]-[87] (Repealed)

Schedules 2, 3 (Repealed)

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
Cll	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *Mines Inspection Amendment Act 1998 No 69*. Assented to 2.7.1998. Date of commencement (Sch 1 [20] in so far as it inserts section 18B in the *Mines Inspection Act 1901* excepted), 30.7.1999, sec 2 and GG No 86 of 30.7.1999, p 5229; date of commencement of Sch 1 [20] in so far as it inserts section 18B in the *Mines Inspection Act 1901*: not in force. This Act has been amended as follows:

2006	No 58	<i>Statute Law (Miscellaneous Provisions) Act 2006</i> . Assented to 20.6.2006. Date of commencement of Sch 4, assent, sec 2 (1).
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Table of amendments

Secs 4, 5	Rep 2006 No 58, Sch 4.
Sch 1	Am 2006 No 58, Sch 4.
Schs 2, 3	Rep 2006 No 58, Sch 4.