

## FACT SHEET

### Workplace Health and Safety Amendment (Mine Safety) Bill 2010

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- The purpose of this Bill is to amend the *Workplace Health and Safety Act 1995* (the WHS Act) to include provisions applying specifically to mines and mining operations.
- The WHS Act places broad general duties of care on a range of people who influence safety and health at work, especially employers. However, the Act and its supporting regulations contain very few provisions targeted specifically to the hazards and operations of mines.
- The need for change was identified as the result of the occurrence of five mining fatalities from 2000 to 2006. Since 2008, three Coroners' reports and one Legislative Council Select Committee Report have recommended the introduction of new mine safety laws.
- The Bill is one part of proposed mine safety legislative reform. The other part will be more detailed mine safety regulations supporting the provisions delivered by the Bill.
- The Bill provides for commencement on a day to be proclaimed. This will enable the provisions of the Bill and the regulations to be coordinated to come into effect on the same day, preferably early in 2011.
- The proposed provisions are intended to apply to mines and mining operations. A mine includes any place at, in, on or under which mining operations are carried out. The definition of a mine will no longer be restricted to places subject to a mining lease under the *Mineral Resources Development Act 1995*.
- Mining operations are defined in terms of the nature of activities captured. They include exploration for minerals,

the extraction or excavation of minerals from the ground, and minerals processing on the same or adjacent site as part of a continuous process of extraction.

- The person who holds the relevant mining lease or mineral tenement, if one exists, or otherwise the person for whose benefit the mining operations are carried out, is referred to in the Bill as the mine holder.
- The provisions require the mine holder to appoint a mine operator to carry out mining operations, and the mine holder must exercise due diligence in selecting an operator with the capacity and resources to ensure the work can be carried out safely.
- The mine holder may appoint himself, herself, or itself (in the case of a body corporate) to be the mine operator.
- Alternatively, a mine holder may appoint a person conducting a business or undertaking with respect to mining operations to undertake the mining operations for the mine on behalf of the mine holder.
- A mine operator must, so far as is reasonably practicable, ensure:
  - the health and safety of mine workers and other persons at the mine; and
  - that persons are not exposed to risks to their health or safety arising from the mining.
- In recognition that it needs to be clear who is in charge at a mine, the proposals will require the mine operator to appoint a natural person to be the site senior officer. The mine operator must ensure that the site senior officer:

- is the most senior officer employed or engaged by the operator at the mine (unless otherwise approved by the Chief Inspector of Mines);
  - is based in Tasmania;
  - maintains a presence at the mine commensurate with the nature size and complexity of the mine and mining operations and the associated risks;
  - have sufficient authority to close or suspend operations at the mine where there is an unreasonable risk to health and safety;
  - have appropriate background and experience taking into account the level of risk to health and safety arising from mining operations at the mine, the size of the mine and the technical expertise available to the site senior officer at the mine;
  - have any requirements specified in the regulations, including qualifications, training, background, experience, knowledge and understanding
- A key focus of the package is that a mine operator must develop, implement, maintain and review a documented health and safety management system that systemically protects, so far as is reasonably practicable, the health and safety of mine workers and other persons who may be exposed to risks arising from mining operations.
  - Existing duty holders at a mine will have additional duties, particularly with respect to complying with the health and safety management system for the mine.
  - The provisions regarding health and safety management systems will come into effect, for medium and large mines, two months after the commencement of the changes. Small

mines will be allowed a longer period, at least until 1 January 2012.

- Further detail on the contents of the health and safety management system will be included in the supporting regulations.
- During the preparation or amendment of any part of the health and safety management system relevant to their activities, a mine operator must consult, so far as is reasonably practicable, with workers who may be exposed to risk to their health or safety arising from the mining operations.
- Inspectors may audit and review the health and safety management system and any of its component elements at any time. An inspector may require amendment to the health and safety management system, or may require the mine operator to review and revise the health and safety management system (or part of it).
- To allow for circumstances where a more technical or in depth assessment is required, the Chief Inspector of Mines may require an independent audit. The provisions also allow for the concept of peer review, where a bipartite team from union(s) and industry may review the health and safety management system.
- The Bill also expands the inspectors' powers and functions under the WHS Act to include the provision of information and advice for the purpose of facilitating compliance with the Act. This function is appropriate for all workplace health and safety inspectors and is not limited to inspectors of mines.
- A number of new functions of the Chief Inspector of Mines are proposed throughout the package, including the capacity to vary some of the new legislative requirements (to allow a

more flexible approach than can be provided by prescription alone). Appeal provisions are included.

- It is proposed that the functions of the Chief Inspector of Mines specified in the WHS Act be amended to better reflect the role. The protections against liability (currently provided to inspectors) will also apply to the Chief Inspector of Mines.