



New South Wales

Work Health and Safety (Mines and Petroleum Sites) Amendment Bill 2022

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* to—

- (a) update a reference to the Department of Regional NSW consequent on a recent administrative change, and
- (b) provide that the regulator is to be known as the NSW Resources Regulator, and
- (c) express penalties for offences as penalty units, rather than monetary values, for consistency with the *Work Health and Safety Act 2011*, and
- (d) provide that, when determining whether a person is suitable to be appointed as an industry safety and health representative, the Minister may make enquiries about the person's suitability, including a nationwide criminal record check and other relevant probity checks, and
- (e) provide that the person appointed Chair of the Mining and Petroleum Competence Board must be independent of the entities that may nominate prospective board members, and
- (f) enable the service of documents on a person or a body corporate by email to an email address specified by the person or body corporate.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Work Health and Safety (Mines and Petroleum Sites) Act 2013 No 54

Schedule 1[1] amends section 5(1) to update the definition of *Department* to mean the Department of Regional NSW as a consequence of recent administrative changes to government departments.

Schedule 1[2] updates the definition of *regulator* to mean the Secretary of the Department, correcting an out-of-date reference to the Head of the Department.

Schedule 1[3] inserts subsection 5(3) to provide the *regulator* is to be known as the NSW Resources Regulator.

Schedule 1[4]–[7] and [10]–[16] amend offence provisions to convert penalties from a monetary value to the equivalent amount in penalty units.

Schedule 1[8] and [9] amend section 28 to provide that the Minister may, when determining whether a person is suitable to be appointed as an industry safety and health representative, make enquiries about the person including a nationwide criminal record check and other relevant probity checks.

Schedule 1[17] and [18] amend section 65 to provide that the person appointed as Chair of the Mining and Petroleum Competence Board must be independent of the entities that may nominate persons to represent the interests of employers or workers.

Schedule 1[19] and [20] amend section 69 to provide that documents may be served on a natural person or a body corporate by email to an email address specified by the person or body corporate.



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New South Wales

Work Health and Safety (Mines and Petroleum Sites) Amendment Bill 2022

No. _____, 2022

A Bill for

An Act to make miscellaneous amendments to the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

The Legislature of New South Wales enacts—

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1 Name of Act

2

This Act is the *Work Health and Safety (Mines and Petroleum Sites) Amendment Act 2022*.

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2 Commencement

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

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Schedule 1	Amendment of Work Health and Safety (Mines and Petroleum Sites) Act 2013 No 54	1
		2
[1] Section 5 Definitions		3
	Omit the definition of <i>Department</i> from section 5(1). Insert instead—	4
	<i>Department</i> means the Department of Regional NSW.	5
[2] Section 5(1), definition of “regulator”		6
	Omit “head”. Insert instead “Secretary”.	7
[3] Section 5(3)		8
	Insert after section 5(2)—	9
	(3) The regulator is to be known as the <i>NSW Resources Regulator</i> .	10
[4] Sections 15(1), (1A) and (2), 16(1), 17(1), 30(3), 34, 35, 45(2) and (3), 46(2), 47(2) and 55		11
	Omit “\$10,000” wherever occurring. Insert instead “100 penalty units”.	12
[5] Sections 15(1), (1A) and (2), 16(1), 17(1), 30(3), 34, 36, 45(2) and (3), 46(2), 47(2), 55 and 58(8)		13
	Omit “\$50,000” wherever occurring. Insert instead “500 penalty units”.	14
[6] Section 25 Offence of failing to comply with requirement of government official		16
	Omit “\$6,000” from the penalty. Insert instead “60 penalty units”.	17
[7] Section 25, penalty		18
	Omit “\$36,000”. Insert instead “360 penalty units”.	19
[8] Section 28 Appointment of industry safety and health representatives		20
	Insert at the end of section 28(2)(b)—	21
	, and	22
	(c) the person is, in the Minister’s opinion, a suitable person to be appointed as an industry safety and health representative.	23
		24
[9] Section 28(2AA)		25
	Insert after section 28(2)—	26
	(2AA) For the purpose of determining under subclause (2)(c) whether a person is suitable to be appointed as an industry safety and health representative, the Minister may make enquiries about the person the Minister considers appropriate, including—	27
		28
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		30
	(a) a nationwide criminal record check, and	31
	(b) other relevant probity checks relating to the person’s previous employment or other activities.	32
		33
[10] Section 36 Offence to assault, threaten or intimidate		34
	Omit “\$250,000” from the penalty. Insert instead “2,500 penalty units”.	35
[11] Section 38 Election of mine safety and health representatives		36
	Omit “\$3,600” from the penalty. Insert instead “36 penalty units”.	37

[12] Section 38, penalty	1
Omit “\$18,000”. Insert instead “180 penalty units”.	2
[13] Section 46 Reports by mine safety and health representatives	3
Omit “\$500” from section 46(1). Insert instead “5 penalty units”.	4
[14] Section 55 Offence—failure to comply with stop work order	5
Omit “\$100,000” from the penalty. Insert instead “1,000 penalty units”.	6
[15] Section 55, penalty	7
Omit “\$500,000”. Insert instead “5,000 penalty units”.	8
[16] Section 58 Witnesses and evidence at inquiries	9
Omit “\$25,000” from the penalty in section 58(8). Insert instead “250 penalty units”.	10
[17] Section 65 Membership of Board	11
Omit “(who is not to be an officer of the Department)” from section 65(1)(a).	12
[18] Section 65(3)	13
Insert after section 65(2)—	14
(3) The Minister may only appoint a person to be the Chairperson of the Board if the person—	15
(a) is not an officer of the Department, and	16
(b) is, in the Minister’s opinion, independent of any entities prescribed by the regulations as entities that may nominate persons to represent the interests of employers or workers for the purposes of subsection (1).	17
[19] Section 69 Service of documents	21
Omit section 69(1)(a)(iv). Insert instead—	22
(iv) sending it by email to an email address specified by the person for the giving or service of documents, or	23
[20] Section 69(1)(b)(iii)	25
Omit the subparagraph. Insert instead—	26
(iii) sending it by email to an email address specified by the body corporate for the giving or service of documents.	27
	28