

QUARRY MANAGER INSTRUMENT OF EXEMPTION 2015

under the

WORK HEALTH AND SAFETY (MINES) REGULATION 2014

I, Jenny Nash, Director Mine Safety Performance, with the delegated authority of the Secretary, Department of Trade and Investment, Regional Infrastructure and Services in pursuance of clause 185 of the *Work Health and Safety (Mines) Regulation 2014* make the following exemption.

Dated this 30th day of June 2015.

JENNY NASH

Director Mine Safety Performance

Department of Trade and Investment, Regional Infrastructure and Services

Explanatory note

This instrument provides an exemption to:

- (1) a mine operator at a mine, other than an underground mine or a coal mine, subject to conditions, such that the mine operator can continue to carry out mining operations for short periods of time even though the quarry manager they have nominated does not meet the qualifications for nomination specified in clause 31 of Schedule 10 of the Regulation; and
- (2) an individual who has been nominated as quarry manager without the qualifications specified in clause 31 of Schedule 10.

QUARRY MANAGER INSTRUMENT OF EXEMPTION 2015

under the

WORK HEALTH AND SAFETY (MINES) REGULATION 2014

1 Name of instrument

This instrument of exemption is the *Quarry Manager Instrument of Exemption 2015*.

2 Commencement

This Exemption commences on 1 July 2015.

3 Interpretation

(1) In this Exemption:

competent person means a person who has acquired through training, qualification or experience the knowledge and skills to carry out the task of supervising mining operations at a mine, other than an underground mine or a coal mine, having regard to the location of the mine, the complexity of the mining operations at the mine and the nature of the material mined.

qualified means an individual who has the qualifications in clause 31 of Schedule 10 of the *Work Health and Safety (Mines) Regulation 2014*.

quarry manager means the statutory function of quarry manager as specified in clause 136 of the *Work Health and Safety (Mines) Regulation 2014* and clause 31 of Schedule 10 of that Regulation.

the Act means the *Work Health and Safety (Mines) Act 2013*.

the Regulation means the *Work Health and Safety (Mines) Regulation 2014*.

this Exemption means *Quarry Manager Instrument of Exemption 2015*.

unqualified means an individual who does not have the qualifications in clause 31 of Schedule 10 of the Regulation.

- (2) Subject to 3(1), the words and expressions used in this Exemption have the same meaning as in relevant provisions of the Act and the Regulation.

5. Application of this Exemption

- (1) This Exemption applies to the following classes of persons:
- (a) a mine operator of a specific mine, other than an underground mine or a coal mine, who nominates an unqualified individual to be quarry manager at that mine.
 - (b) an unqualified individual who is nominated by a mine operator to be quarry manager at a specific mine.
- (2) This Exemption does not apply to the classes of persons in clause 5(1):
- (a) until 28 days after the commencement of mining operations at a specific mine as reported to the regulator pursuant to clause 129(4) of the Regulation;
 - (b) if the mine operator does not comply with the conditions specified in clause 7 of this Exemption, including the provision of a notification to a government official in accordance with clause 8(1) and, if requested by a government official, the provision of a more detailed notification in accordance with clause 8(2); or
 - (c) if a government official has notified the mine operator in writing that they are not satisfied for the purposes of clause 7(3)(c) that the individual who has been nominated to be quarry manager at a specific mine is a competent person.

6 Exemption from compliance with certain regulatory provisions subject to conditions

- (1) A mine operator that is within the class specified in clause 5(1)(a) of this Exemption, subject to clause 7 of this Exemption, is exempt from compliance with the following regulatory provisions in the following manner:
- (a) clause 136(3), such that an individual may be nominated by a mine operator to be quarry manager although that individual is unqualified;
 - (b) clause 136(4), such that an individual nominated by a mine operator to be quarry manager, who becomes unqualified, could be nominated to be quarry manager; and
 - (c) clause 137(1), such that an unqualified quarry manager may supervise mining operations at a mine.
- (2) An individual who is within the class specified in clause 5(1)(b) of this Exemption, subject to clause 7 of this Exemption, is exempt from compliance with the following regulatory provisions in the following manner:
- (a) clause 136(3)-(4), to the extent that those sub clauses require an individual who is nominated by a mine operator to be quarry manager to be qualified; and
 - (b) clause 138, such that an unqualified individual has been nominated to be quarry manager by the mine operator does not have to inform the mine operator of their lack of

qualifications multiple times.

7 General conditions

- (1) Mining operations at a specific mine can only be supervised by an unqualified quarry manager if the individual has been nominated by the mine operator pursuant to clause 136(2) (in reliance on the exemptions in clause 6(1) of this Exemption), to exercise the function of quarry manager.
- (2) Mining operations at a specific mine can only be supervised by:
 - (a) an unqualified quarry manager for a period not exceeding 2 months in any calendar year; or
 - (b) more than one unqualified quarry manager for a total period not exceeding 2 months in any calendar year (noting that a mine operator can only nominate one quarry manager at a time: see clause 136(5) and the definition of 'key statutory function' in clauses 135).
- (3) The mine operator must, at the time they nominate an unqualified individual to be quarry manager at a specific mine:
 - (a) ensure that the unqualified individual they have nominated to be quarry manager is a competent person;
 - (b) provide a notification to a government official, evidencing that the unqualified individual they have nominated to be quarry manager is a competent person in accordance with clause 8 of this Exemption; and
 - (c) satisfy a government official that the unqualified individual nominated to be quarry manager at a specific mine is a competent person.
- (4) The mine operator must notify a government official if they become aware of any information or evidence that suggests that the unqualified individual they have nominated to be quarry manager is no longer a competent person.

8 Notification evidencing that the nominee is a competent person

- (1) A mine operator must notify a government official of the following using the *Quarry Manager Class Exemption – Notification that Nominee is a Competent Person* form published on the Department of Trade & Investment, Regional Infrastructure and Services website:
 - (a) details of the mining operations taking place at the mine;
 - (b) The evidence the mine operator has demonstrated that the unqualified individual they have nominated to be a quarry manager at a specific mine is a competent person, including details and supporting documentation regarding:
 - (i) period of service at the specific mine or in similar mine;
 - (ii) relevant qualifications held;
 - (iii) relevant training completed;
 - (iv) relevant skills and knowledge; and
 - (v) relevant experience,
- (2) A government official may require the mine operator to provide further information demonstrating that the unqualified individual that been nominated to be quarry manager at a specific mine is a competent person. A government official is not required to seek further information before deciding if they are satisfied for the purposes of clause 7(3)(c) or notifying the mine operator that they are not satisfied for the purposes of clause 5(2)(c).