



Mine Safety LEGISLATION UPDATE

No. 3/2009 (LU09-03)

19 October 2009

Proposed amendments to *Coal Mine Health and Safety Act 2002*

The *Coal Mine Health and Safety Act 2002* (CMHS Act) aims to secure the health, safety and welfare of those working in coal mining workplaces in NSW. A statutory review of the Act was undertaken recently. A report on the review's findings was tabled in Parliament on 1 September 2009.

Overall, the review showed that the Coal Mine Health and Safety Act is an effective means of regulating safety in NSW coal mines. However, the review found that some aspects of the Act could be clarified.

To achieve these changes, the Government is proposing to make some amendments to the Act and Regulation which would clarify the jurisdiction of the Act, reduce red tape for industry and ensure safety processes are undertaken more effectively.

It is proposed that the application of the Act is clarified in several ways by:

- changing its application from a geographical area, incorporating all places or work within a colliery holding, to activity based application (applying to all coal workplaces);
- providing that inspectors from Industry and Investment, not WorkCover, have jurisdiction over all workplaces where coal mining related activities occur; and
- providing that the Minister can make a determination as to whether the Act applies to a place of work, in the unusual circumstance where application of the Act to a particular place is unclear (except in court proceedings).

These changes will assist industry in knowing where the Act applies, and will help government to be clear about where its regulatory duties lie.

Other amendments include simplifying requirements for industry and Government in the nomination of a coal operator; excluding the Act from applying to railway operations, public roads, civil engineering works or power lines; and providing for the registration of *mines* under the Mining Act 1992, replacing the current registration of *colliery holdings*.

It is proposed that the amendments relating to the application and enforcement of the Act will be applied retrospectively. However, the amendments will not create any obligations for industry. The proposed amendments will clarify jurisdiction for investigation or prosecution purposes, but will not facilitate any new investigations or prosecutions for past events that would not have been undertaken if the amendments are not made.

A copy of the report on the review of the CMHS Act is available on the Industry and Investment website at www.dpi.nsw.gov.au/minerals/safety/legislation/coal-mines