

LEGISLATION UPDATE

Safe and secure use of explosives in mining

June 2015

Purpose

To advise on the operation of requirements for authorisation under the *Explosives Act 2003* to use or handle explosives in mining in NSW.

Information

Authorisation to handle explosives

Requirements in the *Explosives Act 2003* (the Act) and the *Explosives Regulation 2013* (the Regulation) mean a natural person who intends to use or handle any explosives in a coal workplace or a mining workplace must hold a current security clearance issued by WorkCover NSW, unless they meet the conditions of a supervised handler (refer to section 6A of the Act and clauses 9 and 10 of the Regulation).

A blasting explosives user's licence is also required by a person who intends to use explosives for blasting. A person intending to blast in NSW who has an equivalent interstate licence and seeks to rely on mutual recognition is required to notify WorkCover as the local registration authority before using explosives. Such a person is also required to hold a security clearance as the mutual recognition principles do not preclude such a person from the requirement.

The *Work Health and Safety (Mines) Regulation 2014* also requires mine operators to have arrangements in place to ensure only persons who are licenced under the Act (or by mutual recognition) use explosives at the mine. Among other things, an inspector may require evidence of a security clearance or a licence be produced (refer to clause 109 of the Regulation).

Securing explosives from unauthorised persons

In addition, a person must not allow another person to have unsupervised access to an explosive or explosive precursor unless that other person holds a security clearance (refer to clause 101 of the Regulation). This concerns access to an explosive or explosive precursor in circumstances where no other person who is authorised under a licence to store or handle the explosive or explosive precursor is present.

Explosives will generally be considered secured from unsupervised access if reasonable steps have been taken to ensure they are not accessible to unauthorised persons.

In the case of mining work, an explosive that is set to explode at a mining workplace may be left unsupervised until it is exploded or been destroyed or rendered harmless (refer to clause 95 of the Regulation). However, the explosives would be considered unsecured if they were still easily accessible.

Security guards may be employed to prevent unsupervised access to any explosives at a mining workplace by an unauthorised person and, therefore, ensure that the explosives are effectively secured. In these circumstances, it is likely a person who is authorised under a licence to store or handle the explosive would not also be present.

When assessing the need for a security guard to have a security clearance in accordance with the Act, the following principles should be taken into account:

- guarding of secured explosives will generally not be considered an activity associated with the handling of explosives,

- explosives that are secured in a store or magazine which conforms with the requirements for storage should only be able to be accessed by people with the relevant authority (ie either a security clearance or acting under supervision), and
- guarding the ground where explosives are embedded could involve unsupervised access if the explosives are readily accessible and not secured.

A licence holder or a person who is acting under the authority of a licence and is in possession of explosives at a mine workplace must determine the risk of those explosives being improperly accessed and ensure measures are implemented which are appropriate for the circumstances.

Further information

Transitional arrangements contained in Schedule 3 of the Regulation provide for an unsupervised handling licence in force immediately before the repeal of the *Explosives Regulation 2005* to be taken to be a security clearance granted under the Regulation. Thus the security clearance has effect until the date of expiry specified for the unsupervised handling licence, unless sooner cancelled under the Regulation (see www.legislation.nsw.gov.au).

A person's licence entitlement in another jurisdiction, based on their currently held licence, can be found at www.licencerecognition.gov.au

Further information on explosive licensing (including security clearances) under the Act can be found at www.workcover.nsw.gov.au/licensing

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Users are reminded of the need to follow safe work practice when applying any techniques described in this publication. This includes identifying, assessing and managing any occupational health and safety risks.

OUT14/8181