

RECOGNISED SERVICE FACILITY 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 Industry, Skills and Regional Development in pursuance of clause 185 of the *Work Health and Safety (Mines) Regulation 2014* make the following exemption.

Dated this 20th day of July 2015.

JENNY NASH

Director Mine Safety Performance

Department of Industry, Skills and Regional Development

Explanatory note

It is noted that the *Recognition of existing qualifications and other related matters* published in the NSW Government Gazette No 8 of 30 January 2015 at page 119-122, declares that an entry on the register of recognised service facilities for explosion-protected diesel engine systems used in underground coal mines kept by the Department of Industry, Skills and Regional Development is equivalent to a licence for overhauling, repairing or modifying activities that may affect the explosion-protection properties of explosion-protected plant as detailed in clause 152(2)(b), subject to the limitation that it only authorises such activities in respect of explosion-protected diesel engines. For clarity, this instrument provides an exemption to:

- (1) a person, subject to conditions, such that overhauling, repairing or modifying activities on explosion-protected diesel engine systems can be carried out under, and in accordance with, the registration of a recognised service facility made since 1 February 2015, without a person holding a licence under Part 9 of the Regulation; and
- (2) a mine operator, subject to conditions, who allows a person to carry out certain activities on explosion-protected diesel engine systems from 1 February 2015, without a licence under Part 9 of the Regulation.

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1. Name of instrument

This instrument of exemption is the *Recognised Service Facility Instrument of Exemption 2015*.

2. Commencement

This Exemption commences on 20 July 2015.

3. Interpretation

- (1) In this Exemption:

Department means Department of Industry, Skills and Regional Development.

licensed means a person who holds a licence in respect of a licensed activity under Part 9 of the *Work Health and Safety (Mines) Regulation 2014*.

licensed activity means any overhauling, repairing or modifying activities that may affect the explosion-protection properties of explosion-protected plant, as specified in clause 152(2)(b) of the *Work Health and Safety (Mines) Regulation 2014*, which are used at, or with respect to, an underground coal mine.

Recognised service facility means a person that has been recognised in writing by the Senior Inspector of Mechanical Engineering from the Department, as being capable of carrying out a licensed activity in relation to explosion-protected diesel engine systems used in an underground coal mine.

Register of recognised service facilities means a register of recognised service facilities for explosion-protected diesel engine systems used in underground coal mines published on the Department's website.

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 *Recognised Service Facility Instrument of Exemption 2015*.

unlicensed means a person who does not hold a licence in respect of a licensed activity under Part 9 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.

4. Application of this Exemption

- (1) This Exemption applies from 1 February 2015 to the following classes of persons:
- (a) an unlicensed person who carries out a licensed activity in relation to explosion-protected diesel engine systems at, or with respect to, an underground coal mine.
 - (b) a mine operator of an underground coal mine who allows a unlicensed person to carry out a licensed activity in relation to explosion-protected diesel engine systems at, or with respect to, an underground coal mine.
- (2) This Exemption does not apply to the classes of persons in clause 4(1) if the manner of carrying out the licensed activity in relation to explosion-protected diesel engine systems does not comply with the conditions specified in clause 6 of this Exemption.

5. Exemption from compliance with certain regulatory provisions subject to conditions

- (1) A person who is within the class specified in clause 4(1)(a) of this Exemption, subject to clause 6 of this Exemption, is exempt from compliance with clause 153(1) of the Regulation, such that an unlicensed person may carry out a licensed activity in relation to explosion-protected diesel engine systems at, or with respect to, an underground coal mine.
- (2) A mine operator that is within the class specified in clause 4(1)(b) of this Exemption, subject to clause 6 of this Exemption, is exempt from compliance with clause 153(2) of the Regulation, to the extent that a mine operator must ensure a licensed activity in relation to explosion-protected diesel engine systems at, or with respect to, an underground coal mine, is carried out by a licensed person.

6. General conditions

- (1) A licensed activity in relation to explosion-protected diesel engine systems can only be carried out by a recognised service facility that is registered on the register of recognised service facilities for explosion-protected diesel engine systems used in underground coal mines kept by the Department.
- (2) A licensed activity in relation to explosion-protected diesel engine systems must be carried out under, and in accordance with, the scope, limitations and conditions of a recognised service facility's registration.
- (3) The mine operator of an underground coal mine must ensure that they have evidence that the relevant recognised service facility is on the register of recognised service facilities for explosion-protected diesel engine systems used in underground coal mines kept by the Department.