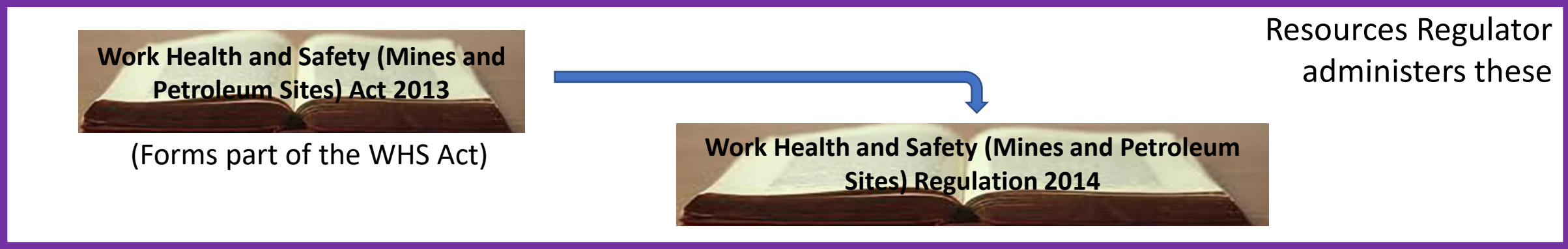


Legislation Updates and Exemptions

**Small Mines Roadshow
February – April 2022**

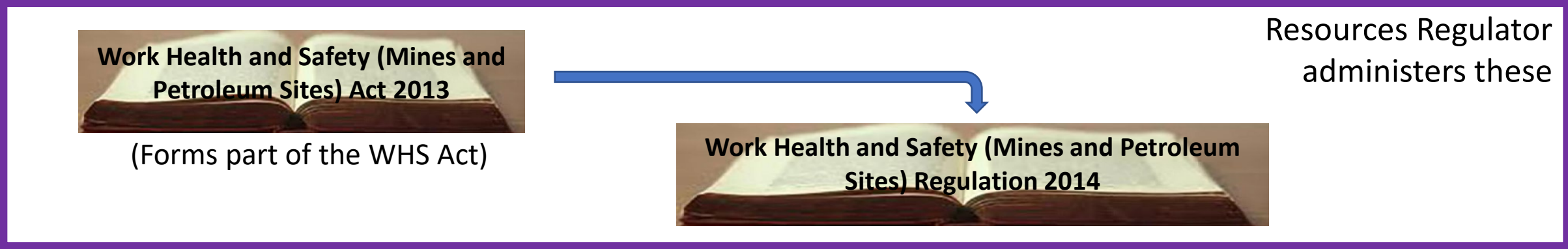




(Forms part of the WHS Act)



Resources Regulator
administers these



(Radioactive Ores)



WHS Act



Work Health and Safety Act 2011

There was a review undertaken and amendments were made. The key changes were:

- **Category 1 offence** – gross negligence added
- **Prohibition of insurance and indemnity arrangements** – so people cannot avoid responsibilities for paying fines
- **Increased penalties** – changed from dollar value to a penalty unit. Penalty units are indexed by the CPI
- **Time to commence a prosecution** – extended from 12 months to 18 months
- **Health and Safety Representative (HSR)** – can choose their course of training
- **171 notices** - can be issued up to 30 days after a site visit by the inspector who visited the mine or by another inspector

WHS (Mines and petroleum sites) Regulation

Came into force 1 February 2021

Work Health and Safety (Mines and Petroleum Sites) Regulation 2014

Clause 130 – Work Health and Safety Reports.

(3) This clause (being clause 130) **does not apply to**—

(a) **a mine, other than a coal mine, at which the total number of hours worked by all workers at the mine during the reporting period is less than 10,000 hours, including additional hours and overtime,**

or

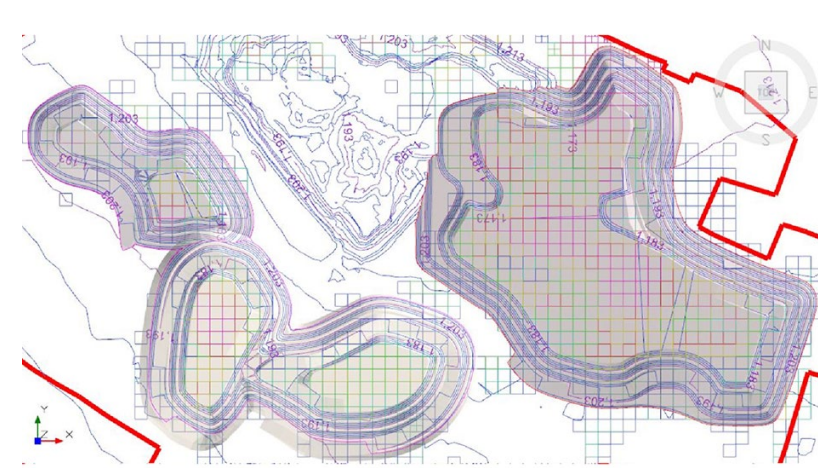
(b) a mine, including a mineral exploration site, at which no mining operations are carried out during the reporting period other than activities carried out for the purpose of exploring for minerals.

WHS (Mines and petroleum sites) Regulation

Clause 122 - amended to update the definition of the Geocentric Datum of Australia (GDA), being that it has the same meaning as in the *Surveying and Spatial Information Act 2002*. (A new 2020 version of the GDA has been prescribed and will take effect in the *Surveying and Spatial Information Act 2002* from May 2022.)

A transitional arrangement is included in the regulation to enable mine operators to refer to either the current 1995 or the new 2020 version of the GDA when preparing their mine survey plans until 15 May 2022

This might affect you if you have a mine survey plan.
Transitional arrangements are in place until
15 May 2022



WHS (Mines and petroleum sites) Regulation

Clause 12 Schedule 9 - amended to clarify the information that is to be included in a work health and safety report, that is the total number of injuries and illnesses of workers during the reporting period that resulted in a worker being placed on restricted duties **for 1 day or more** (not including the day on which the injury was sustained or the illness first became apparent), but not injuries or illnesses already included under clause 9 of this schedule.

Clause 9 = No of injuries / illnesses resulting in time off for 1 day or more

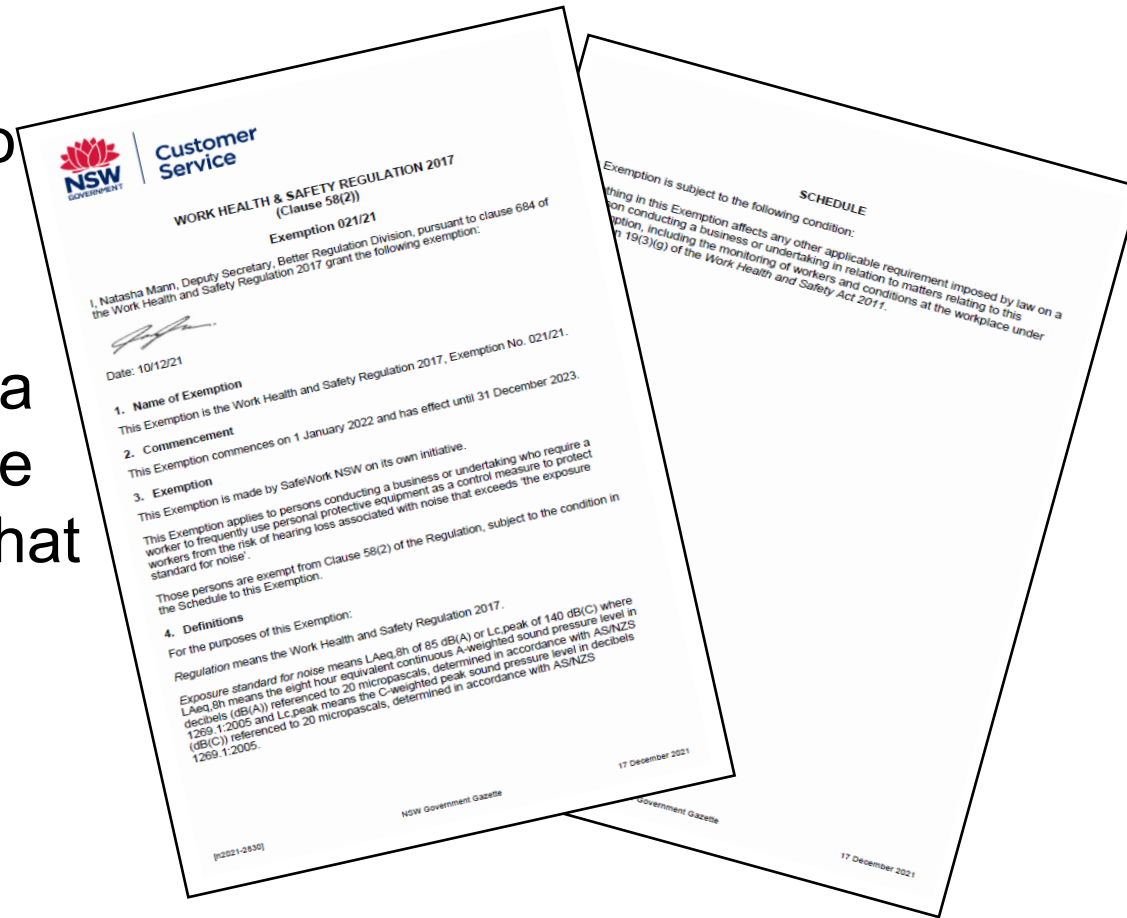
Clause 12 = No of injuries / illnesses resulting in restricted duties for 1 day or more

Only affects those who submit a Health and Safety Report.



Exemption – issued by Safework NSW

- The previous Audiometric Testing Exemption has been extended.
- The extension runs from 1 January 2022 to 31 December 2023.
- The Exemption applies to PCBU's who require a worker to frequently use PPE as a control measure to protect workers from the risk of hearing loss associated with noise that exceeds 'the exposure standard for noise'.
- Those persons are exempt from Clause 58(2) of the Work Health and Safety Regulation 2017.



WHS Regulation – clause 58 Audiometric testing

58 Audiometric testing

- (2) The person conducting the business or undertaking who provides the personal protective equipment as a control measure must provide audiometric testing for the worker:
- (a) within 3 months of the worker commencing the work, and
 - (b) in any event, at least every 2 years.

Work Health and Safety Regulation 2017

[2017-404]



New South Wales

Status information

Currency of version

Current version for 18 December 2020 to date (accessed 22 January 2022 at 08:25)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical Notes](#)

Does not include amendments by—

Cl 702C(2) of this Regulation (cl 702C(2) repeals cl 702C on 31.12.2022)

Staged repeal status

This legislation is currently due to be automatically repealed under the *Subordinate Legislation Act 1989* on 1 September 2022

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the *Interpretation Act 1987*.

File last modified 13 May 2021.

NSW Critical Worker Self Isolation Exemption

- ✓ The NSW critical worker exemption has been amended
- ✓ An exempt critical worker is exempt from the Self Isolation Order clauses 7A & 8



Public Health (COVID-19 Self-Isolation) Order (No 4) 2021

Critical worker exemption from the Public Health (COVID-19 Self-Isolation) Order (No 4) 2021 (No 5)

I, Brad Hazzard MP, Minister for Health, being satisfied that it is necessary to protect the health, welfare, safety and wellbeing of members of the public, grant the exemption from the Public Health (COVID-19 Self-Isolation) Order (No 4) 2021 (the **Order**).

The Public Health (COVID-19 Self-Isolation) Order (No 4) 2021 (No 4) is hereby revoked with effect from the signing of this

for the purpose of attending work, subject to the following conditions:
 on behalf of their employer for the purposes of the exemption.

at their residence and their workplace(s).

Item	Sector	Exempted activity or person
1.	Public administration and safety	<ul style="list-style-type: none"> • a member of the NSW Police Force, Fire and Rescue NSW, the NSW State Emergency Service, or the NSW Rural Fire Service • a person who provides ancillary or support services to the work of an emergency services worker • the operation of correctional centres and community corrections • a person employed by the NSW State Emergency Service • a member of Surf Life Rescue Association • a person who is employed in a mine or quarry in accordance with the Coal Seam Gas Safety (Mines and Quarries) Regulation 2017, or • a person who is employed in accordance with the Coal Seam Gas Safety (Mines and Quarries) Regulation 2017, at
2.	Health care and social assistance	<ul style="list-style-type: none"> • a person employed in a health care service, or child protection services • a community housing provider • a person employed in a health care service, or child protection services <ul style="list-style-type: none"> ◦ family violence ◦ drug and alcohol services ◦ mental health services • veterinary services • animal welfare, care and services • animal welfare research
3.	Agriculture	<ul style="list-style-type: none"> • biosecurity and food safety • a person employed in a health care service, or child protection services
4.	Manufacturing	<ul style="list-style-type: none"> • production and manufacturing of food and fibre products • manufacture of food and fibre products • manufacture of medicines • manufacture of pharmaceuticals • manufacture of coffee • production and manufacturing of other goods
5.	Transport, postal and warehousing	<ul style="list-style-type: none"> • seaport operations • freight (air, sea, road and rail)

Item	Sector	Exempted activity or person
		<ul style="list-style-type: none"> — including food logistics, delivery and grocery fulfilment — but not including home and office removals
		<ul style="list-style-type: none"> • export supply chain operators • distribution of food, groceries and sanitary products for sale by supermarkets, grocery shops or other shops that predominantly sell food or drinks • a person employed or engaged to work in retail premises that are supermarkets, grocery shops, or other shops that predominantly sell food and drinks to undertake shelf-packing or nightfill duties which do not require direct interaction with retail customers • warehousing • bus drivers and support staff (including supervisors, mechanics and schedulers) who are necessary for the provision of bus services to school students.
6.	Funerals	<ul style="list-style-type: none"> • funeral, crematorium and cemetery services, and mortuaries and morgues
7.	Electricity, gas, water and waste services	<ul style="list-style-type: none"> • electricity services • operation of energy systems • gas services • sale, supply and distribution of liquid fuels • water supply, sewerage, sanitation and drainage services • waste and resource recovery services (including collection, treatment and disposal services)
8.	Information, media and telecommunications	<ul style="list-style-type: none"> • telecommunications services, internet service providers, web search portals and data processing services • data specialists and technicians • data storage • journalism and media services for news and other critical public communications purposes
9.	Education	<ul style="list-style-type: none"> • education and schooling • early childhood education and care

Signed:

Brad Hazzard
Minister for Health

Date and time: 07 February 2022,

6:12 pm

NSW Critical Worker Self Isolation Exemption

Who is exempt?

Item	Sector	Exempted activity or person
1.	Public administration and safety	<ul style="list-style-type: none">a member of the NSW Police Force, Fire and Rescue NSW, the NSW State Emergency Service, or the NSW Rural Fire Servicea person who provides ancillary or support services to the work of an emergency services workerthe operation of correctional centres and community correctionsa person employed by Penitence NSWa member of Surf Life Saving New South Wales, Volunteer Marine Rescue NSW, or New South Wales Volunteer Rescue Association Inca person who is employed or engaged to undertake a statutory function under Schedule 10 of the <i>Work Health and Safety (Mines and Petroleum Sites) Regulation 2014</i>a person who is employed or engaged at a major hazard facility, as defined in the <i>Work Health and Safety Regulation 2017</i>, and who is necessary to ensure the critical safety of the facility
2.	Health care and social assistance	<ul style="list-style-type: none">a person employed or engaged by the Department of Communities and Justice to provide housing or homelessness services, or child protection servicesa community housing providera person employed or engaged to provide:<ul style="list-style-type: none">family violence and sexual assault servicesdrug and alcohol servicesmental health support servicesveterinary services (including laboratory and diagnostic services and clinics)animal welfare care, feeding and accommodation services (excluding pet grooming unless there is an immediate animal welfare reason)
3.	Agriculture	<ul style="list-style-type: none">biosecurity and food safety personnel undertaking critical dutiesa person employed or engaged by a fish hatchery
4.	Manufacturing	<ul style="list-style-type: none">production and manufacturing of food, beverages, groceries, cleaning and sanitary productsfood and fibre processing and manufacturingmanufacture of food and beverage packagingmanufacture of medical equipment, consumables and personal protective equipmentmanufacture of pharmaceutical and blood productsmanufacture of coffins and casketsproduction and manufacturing of animal feed and animal feed packaging
5.	Transport, postal and warehousing	<ul style="list-style-type: none">seaport operations

- a person who is employed or engaged to undertake a statutory function under Schedule 10 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014

NSW Critical Worker Self Isolation Exemption

What does the exemption mean?

A worker will only be eligible for the exemption if their employer determines that:

- a) their absence from the workplace poses a high risk of disruption to the delivery of critical services or activities; and
- b) they are unable to work from home.

NSW Critical Worker Self Isolation Exemption

What does the exemption mean?

- If you are an exempt worker (Quarry Manager, Electrical Engineer, Surveyor or Qualified Electrical Tradesperson) if you live with a person who is positive with Covid 19 then you **do not** have to self - isolate
- But if you test positive then you do have to isolate.

7A Persons who reside with diagnosed persons

(1) This clause applies if—

(a) under clause 7(1)(b), a person (a *household contact*) is notified by a diagnosed person with whom they are in contact and who is positive for COVID-19

(b) the household contact is notified on behalf of an authorised contact tracer

(2) The household contact must be given a direction under clause 7(1)(b) of residence, or a place suitable for the household contact to reside, within 7 days from when the household contact is notified.

Note— See clause 8(7A), which provides that a household contact if the person is notified more than 28 days since the person's period of self-isolation under clause 6 in relation to that diagnosis ended.

8 Close contacts of persons diagnosed with COVID-19 must self-isolate

(1) A close contact must, if directed in writing to do so by or on behalf of an authorised contact tracer, immediately travel directly to—

(a) the close contact's residence or a place suitable for the close contact to reside in, or

Note— See also clause 7A, which provides that a person who resides with a diagnosed person must self-isolate under this paragraph even if not directed to do so by or on behalf an authorised contact tracer.

NSW Critical Worker Self Isolation Exemption

What does the exemption mean?

- Critical workers must wear a mask at all times in the workplace, unless eating or drinking or if the mask needs to be removed for safety reasons.
- Critical workers must undergo regular Rapid Antigen Tests (**RATs**) for a period of 7 days from when they last had contact with the diagnosed person, and must notify their employer of each result. 'Regular' means recurring at uniform intervals. There is a high probability that a person who is a household contact will develop COVID-19 in the 7 days following exposure. To reduce the risk of exposing others in the workplace, NSW Health recommends that RATs should be used on any day with the possibility of RATs.
- Any period of self-isolation for 7 days following exposure to a person with COVID-19, or a positive PCR test result.
- Notwithstanding the above, critical workers may be exempt from self-isolation for 7 days following exposure to a person with COVID-19, or a positive PCR test result, if they can demonstrate that they have undertaken regular RATs with a negative result.
- Critical workers must notify their employer of their exemption status to minimise the risk of transmission of COVID-19 (see below).



Critical worker self-isolation exemption guidance

nsw.gov.au/covid-19/business/nsw-rules/exemption-guidance

11 February 2022

In Summary

- ✓ Tier 2 mines – clarification of your reporting in your Health & Safety Report of injuries or illnesses that result in a worker going onto restricted activities
- ✓ Tier 3 mines – no real change. (Business as usual)
- ✓ All mines, statutory function holders are exempt from self isolation but with lots of rules around being exempt.

Any questions?

