

South Australia

Mines and Works Inspection Regulations 2013

under the *Mines and Works Inspection Act 1920*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Mines and Works Inspection Regulations 2013*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

Act means the *Mines and Works Inspection Act 1920*;

amenity of an area or place includes any quality or condition of the area or place that conduces to its biological, physical or cultural value;

approved means approved by the Chief Inspector;

authorised person means a person authorised under section 7 of the Act to inspect a mine;

business day means a day other than a Saturday, Sunday or a public holiday;

Chief Inspector means the Chief Inspector of Mines;

competent person means a person who is suitably qualified (whether by experience, training, or both) to carry out the work or function described in the relevant regulation;

Department means the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act;

Director means the Chief Executive of the Department;

petroleum has the same meaning as in the *Petroleum and Geothermal Energy Act 2000*;

precious stones has the same meaning as in the *Opal Mining Act 1995*;

precious stones field means a precious stones field under the *Opal Mining Act 1995*;

quarry means a quarry, open cut, gravel pit, sand pit, clay pit, borrow pit or other excavation, other than an underground mine, made in the natural surface of the ground for the purpose of recovering any mineral, and includes works;

site means the place where or under which mining operations have been or are being carried out, and includes the area in the vicinity of that place;

top soil means the surface soil of land in its natural state, distinguishable from overburden;

underground mine means an excavation made in order to conduct operations underground for the purpose of recovering any mineral, and includes works.

- (2) If a regulation refers to the number of persons working in a mine then, for the purposes of computing the number of those persons, the owner of the mine will not be included but a contractor will be included if the contractor is working in the mine.

Part 2—Administration

Division 2—Commencement and cessation of work

7—Approval to undertake certain activities

- (1) The owner of a mine must not—
 - (a) prepare or develop a new deposit for the extraction of a mineral; or
 - (b) open up or commence to rework an old mine or a previously worked deposit; or
 - (c) commence work for the construction of a building or plant for the treatment of a mineral at the site of the mine,

or allow such an activity to occur, without the written approval of the Chief Inspector or a designated person.

- (2) The owner of a mine must, at least 21 days before an activity referred to in subregulation (1) is proposed to be undertaken, furnish the Chief Inspector or a designated person with a notice, in writing, setting out details of the activity that is to be undertaken (and those details must be sufficient to enable the Chief Inspector or a designated person to make a decision for the purposes of subregulation (1)).
- (3) This regulation does not apply to—
 - (a) mining operations being carried out under a lease or licence under the *Mining Act 1971*; or
 - (b) the recovery of precious stones on a precious stones field; or
 - (c) the recovery of petroleum.
- (4) In this regulation—

designated person means a person authorised in writing by the Chief Inspector to give an approval under this regulation.

8—Notices

- (1) The owner of a mine must, within 3 business days after—
 - (a) the acquisition of the mine (being a working mine) by the owner; or
 - (b) the commencement of work at a mine; or
 - (c) the recommencement of work at a mine after a cessation of work,furnish the Chief Inspector with a notice in writing setting out—
 - (d) the full name and address of the owner; and
 - (e) the situation of the mine; and
 - (f) the mineral or substance being mined or worked (or to be mined or worked); and
 - (g) the estimated number of persons employed (or to be employed) at the mine.

- (2) In this regulation—

cessation of work does not include a cessation for holidays or repairs, or on account of industrial action.

Division 3—Plans and programs

9—Plans and programs

- (1) The Chief Inspector may, by notice in writing served on the owner of a mine, require that 1 or more of the following be prepared within the time specified in the notice:
- (a) accurate maps, plans or sections of the mine, and its immediate environs;
 - (b) development programs for the mine.
- (2) The owner of a mine to whom a notice is directed under subregulation (1) must ensure—
- (a) that a map, plan, section or program required by the notice is prepared in accordance with the requirements of the notice and the requirements of Schedule 2 specified in the notice; and
 - (b) that 3 copies of each map, plan, section or program are delivered to the Chief Inspector at the principal office of the Department within the time required by the notice; and
 - (c) that the original (or an accurate copy) of each map, plan, section or program is kept at the mine office; and
 - (d) —
 - (i) that each map, plan and section is, at intervals not exceeding 7 years, and immediately before the abandonment of the mine, updated to show the current workings and operations of the mine, or the state of the mine, that 3 copies of each updated document are then immediately delivered to the Chief Inspector, and that the original (or an accurate copy) of each updated document is kept at the mine office; and
 - (ii) that a development program is, at intervals not exceeding 7 years or such other period as the Chief Inspector may determine, updated, that 3 copies of the updated document is then immediately delivered to the Chief Inspector, and that the original (or an accurate copy) of the updated document is kept at the mine office.
- (3) The owner of a mine to whom a notice is directed under subregulation (1) must ensure that all maps, plans, sections and programs are drawn to scales approved by the Chief Inspector and are sufficient to show clearly all relevant detail.
- (4) The owner of a mine who is required to prepare or update a development program under this regulation must not carry out, or allow to be carried out, work that adversely affects, or is likely to adversely affect, the amenity of the site of the mine unless or until—
- (a) the Chief Inspector has approved the development program, in its original form or as updated, as the case may require; or

- (b) the Chief Inspector has given a specific approval for the work.
- (5) The owner of a mine must not carry out, or allow to be carried out, work that is contrary to, or inconsistent with, the provisions of a relevant development program.
- (6) An inspector or authorised person may, at any reasonable time, with or without an assistant, inspect and examine any map, plan, section or program kept at a mine.
- (7) A person who has the possession, custody or control of a map, plan, section or program kept at a mine must, at the request of an inspector or authorised person, produce the document for inspection or examination.

Division 4—Inspections

10—Duty to facilitate inspections

The owner of a mine must, at the request of an inspector or authorised person (in connection with the operation of the mine)—

- (a) cause the inspector or authorised person to be lowered into, or raised from, a shaft or otherwise mechanically transported within any workings;
- (b) ensure that the inspector or authorised person has access to all parts of the mine, and all plant and machinery at the mine;
- (c) do all things necessary to enable an inspection of the mine to occur.

Division 5—Duty to provide equipment

11—Duty to provide equipment

- (1) The owner of a mine must—
 - (a) provide and install at the mine the materials and equipment that are necessary to enable compliance with these regulations; and
 - (b) ensure that these materials and equipment are maintained in good condition and are used appropriately.
- (2) If a contractor is operating in a mine, the contractor is under the same duty as the owner of the mine under subregulation (1) in relation to material and equipment in that part, or those parts, of the mine in which the contractor is operating, and to or for those persons to whom the contractor's powers and authority extend.
- (3) In this regulation—

equipment includes all types of machinery, plant, appliances, tools and articles.

Part 3—Amenity of mine area and of the surrounding environment

12—General duties

- (1) A person who carries out a mining operation or an associated, incidental or ancillary activity must ensure that the operation or activity is carried out so as to minimise interference with the amenity of the area.

- (2) A person who carries out a mining operation or an associated, incidental or ancillary activity must ensure that vegetation within and around the site of the operation or activity is not unnecessarily interfered with, damaged or cut down.
- (3) A person who carries out a mining operation or an associated, incidental or ancillary activity must not create a nuisance through the production of undue or excessive noise or dust.
- (4) A person who carries out a mining operation or an associated, incidental or ancillary activity must not allow the operation or activity to cause the sea, groundwater, or a river, tributary, stream, dam, watercourse, billabong or other body of water, to become degraded.

13—Conservation of top soil

A person who carries out a mining operation must ensure—

- (a) that any top soil that must be removed for the purposes of the mining operation, that can be collected separately from the overburden, and that is suitable for subsequent use in connection with revegetation measures as part of the rehabilitation of the site, is stored (on its removal) in a manner that maximises its usefulness for rehabilitation purposes; and
- (b) so far as is reasonably practicable, that any top soil that is being stored is protected from undue wind and water erosion.

14—Protection from damage

- (1) A person who carries out a mining operation must not place products, overburden, waste material, dams or materials so as to—
 - (a) interfere with (or potentially interfere with) natural drainage; or
 - (b) cause (or potentially cause) damage to property; or
 - (c) unduly interfere with the amenity of the area; or
 - (d) permit the degradation of the sea, groundwater, or a river, tributary, stream, dam, watercourse, billabong or other body of water.
- (2) A person who carries out a mining operation must not permit the release of material so as to cause the pollution of air at the site.
- (3) The owner of a mine where an excavation occurs (or has occurred), or from which top soil is removed, must so far as is reasonably practicable take action to avoid undue wind and water erosion at the site or in relation to surrounding areas.
- (4) However, an act undertaken for the purposes of subregulation (3) must not cause degradation of the sea or groundwater, or a river, tributary, stream, dam, watercourse, billabong or other body of water.
- (5) If a mining operation or an associated, incidental or ancillary activity intersects 2 or more aquifers that have different groundwater qualities, the owner of the mine must ensure that groundwater degradation is minimised (both for while the mine is in operation and for when the mine is decommissioned).

15—Decommissioning notices

The owner of a mine (or, as the case requires, the former owner of a mine) must furnish the Chief Inspector with—

- (a) a notice when mining operations at the mine are complete; and
- (b) a further notice when plant, machinery and materials are removed from the mine and the site; and
- (c) a further notice when the land has (in the opinion of the owner) been rehabilitated.

16—Decommissioning requirements

The owner of a mine must leave the site of the mine in a clean, tidy, stable and safe condition.

17—Rehabilitation

The owner of a mine (or, as the case requires, the former owner of a mine) must, within 2 years after the cessation of work at the mine, carry out or ensure the proper rehabilitation of the site of the mine, and any other affected area, in accordance with any directions of the Chief Inspector.

Part 4—Miscellaneous

18—Exemption

- (1) If the Chief Inspector is satisfied—
 - (a) that compliance with a regulation is unnecessary, impractical or undesirable in a particular case; or
 - (b) that a satisfactory alternative procedure, action or installation will be adopted, taken or installed,

the Chief Inspector may (in his or her discretion) exempt a person, or a class of persons, from the operation of a regulation.

- (2) An exemption under subregulation (1) may be granted subject to conditions or limitations specified by the Chief Inspector.
- (3) If the Chief Inspector determines—
 - (a) that a condition under subregulation (2) has been contravened or not observed; or
 - (b) that circumstances have altered,

the Chief Inspector may revoke an exemption.

19—Offences

- (1) A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

Maximum penalty: \$1 000.

- (2) The owner of a mine must ensure compliance with the requirements of these regulations.
Maximum penalty: \$1 000.
- (3) If an act or default that results in a contravention or failure to comply with a regulation is committed by a person other than the owner of a mine, both the person and the owner of the relevant mine are guilty of an offence.
- (4) The owner of a mine must not knowingly allow or permit a person to contravene or fail to comply with a provision of these regulations.
Maximum penalty: \$1 000.

20—General defence

It is a defence to a charge of an offence against these regulations for the accused to prove that the offence relates to a matter over which the accused did not have control and could not reasonably have been expected to have control.

Schedule 2—Prescribed requirements for plans and programs

The following requirements are prescribed for the purposes of regulation 9:

1—Locality plan of mine area

- (1) A locality plan of the mine area and of an area not less than metres, outside the boundaries of the mine area (ie area over which mining rights are held), on standard sheet (x) with date and north point and showing the following:
 - (a) the name of the county and hundred;
 - (b) the boundaries of sections and allotments and their section and allotment numbers;
 - (c) the names and addresses of the occupiers and owners of the mine area;
 - (d) the surface contours of the mine area at intervals not exceeding 3 metres related to sea level or to an established permanent local bench mark;
 - (e) the locations of public and private utilities, protected sites, housing and buildings existing within the limits of the plan, including transmission lines, watercourses, drains and water storages, and explosives storages and preparation buildings, and oil storages.
- (2) In this clause—
protected sites means historic buildings, monuments etc.

2—Working plan of mine area

A working plan of the mine area or the proposed mine area, as the case may be, and sections (at least 2, 1 longitudinal and 1 a cross-section) giving contours at intervals not exceeding 3 metre intervals and showing the following:

- (a) the boundaries of the land over which mining rights are held;

- (b) the positions of bore holes and test excavations showing the depths, thicknesses and types of strata;
- (c) the boundaries of all existing quarry excavations showing all bench floors and slopes of faces;
- (d) all underground excavations, including excavations that have been backfilled;
- (e) the locations of existing plant, machinery, buildings, roads, safety fences, services, and utilities, tree belts and other screens such as hedgerows or shelter belts, waste rock screens, and other barriers, explosives storages and preparation buildings, and oil storages;
- (f) the locations of existing slime dams, tailing dams, settling ponds, water storages, watercourses and drains;
- (g) the location of existing dumps of overburden and waste, and stockpiles of products;
- (h) the proposed situation for years at intervals years or when mining is complete, with regard to—
 - (i) the boundaries of all quarry excavations showing also bench floors, slopes of faces;
 - (ii) the location of plant, machinery, buildings, roads, safety fences, services and utilities, tree belts and other screening such as hedgerows and waste rock screens, explosives storages and preparation buildings, and oil storages;
 - (iii) the location and the elevation of soil and overburden dumps;
 - (iv) the locations and the elevation of water storages, settling ponds, slime dams and tailings storages;
 - (v) the drainage system for disposal of water and liquid waste products.

3—Development program

A development program showing the following:

- (a) the method of operation and the order of procedure or stages to be adopted in the progressive extraction of mineral substances;
- (b) the provisions made or to be made for prevention of nuisances, and for the prevention of pollution of drainage waters;
- (c) the method of operation and the order of procedure for screening and the progressive rehabilitation of worked-out areas, dumps, dams etc so as to conform to the general amenity of the area, as well as the methods by which revegetation will be carried out.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Mines and Works Inspection Regulations 2013* revoked the following:

Mines and Works Inspection Regulations 1998

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2013	222	<i>Gazette 29.8.2013 p3715</i>	1.9.2013: r 2
2014	101	<i>Gazette 19.6.2014 p2557</i>	1.7.2014: r 2
2014	256	<i>Gazette 30.10.2014 p6224</i>	30.10.2014: r 2
2015	116	<i>Gazette 18.6.2015 p2696</i>	1.7.2015: r 2
2016	143	<i>Gazette 23.6.2016 p2375</i>	1.7.2016: r 2
2017	164	<i>Gazette 22.6.2017 p2440</i>	1.7.2017: r 2
2018	90	<i>Gazette 21.6.2018 p2221</i>	1.7.2018: r 2
2018	182	<i>Gazette 28.6.2018 p2654</i>	4.10.2018: r 2
2019	65	<i>Gazette 13.6.2019 p1845</i>	1.7.2019: r 2
2020	84	<i>Gazette 4.6.2020 p2845</i>	1.7.2020: r 2
2020	301	<i>Gazette 19.11.2020 p5195</i>	1.1.2021: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2014</i>
r 3		
r 3(1)		

<i>Board of Examiners manager</i>	<i>deleted by 256/2014 r 4</i>	<i>30.10.2014</i>
<i>r 3(2)</i>	<i>deleted by 301/2020 r 4(1)</i>	<i>1.1.2021</i>
<i>r 3(3)</i>	<i>varied by 301/2020 r 4(2)</i>	<i>1.1.2021</i>
	<i>deleted by 301/2020 r 4(3)</i>	<i>1.1.2021</i>
Pt 2		
<i>Pt 2 Div 1</i>	<i>deleted by 301/2020 r 5</i>	<i>1.1.2021</i>
Pt 2 Div 2		
<i>r 8</i>		
<i>r 8(1)</i>	<i>varied by 301/2020 r 6</i>	<i>1.1.2021</i>
Pt 2 Div 4		
<i>r 10</i>	<i>varied by 301/2020 r 7</i>	<i>1.1.2021</i>
Pt 4		
<i>r 19</i>		
<i>r 19(4)</i>	<i>varied by 301/2020 r 8</i>	<i>1.1.2021</i>
<i>r 21</i>	<i>deleted by 301/2020 r 9</i>	<i>1.1.2021</i>
<i>Sch 1 before deletion by 301/2020</i>	<i>substituted by 256/2014 r 5</i>	<i>30.10.2014</i>
<i>Sch 1 Pt 2</i>		
<i>cl 13</i>		
<i>cl 13(1)</i>	<i>varied by 182/2018 r 4(1)</i>	<i>4.10.2018</i>
<i>cl 13(2) and (3)</i>	<i>deleted by 182/2018 r 4(2)</i>	<i>4.10.2018</i>
<i>cl 13(4)</i>	<i>substituted by 182/2018 r 4(3)</i>	<i>4.10.2018</i>
<i>cl 13(5)</i>	<i>substituted by 182/2018 r 4(4)</i>	<i>4.10.2018</i>
<i>cl 13(6) and (7)</i>	<i>deleted by 182/2018 r 4(4)</i>	<i>4.10.2018</i>
<i>Sch 1</i>	<i>deleted by 301/2020 r 10</i>	<i>1.1.2021</i>
<i>Sch 3</i>	<i>substituted by 101/2014 r 4</i>	<i>1.7.2014</i>
	<i>substituted by 116/2015 r 4</i>	<i>1.7.2015</i>
	<i>substituted by 143/2016 r 4</i>	<i>1.7.2016</i>
	<i>substituted by 164/2017 r 4</i>	<i>1.7.2017</i>
	<i>substituted by 90/2018 r 4</i>	<i>1.7.2018</i>
	<i>substituted by 65/2019 r 4</i>	<i>1.7.2019</i>
	<i>substituted by 84/2020 r 4</i>	<i>1.7.2020</i>
	<i>deleted by 301/2020 r 10</i>	<i>1.1.2021</i>
<i>Sch 4</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2014</i>

Transitional etc provisions associated with regulations or variations

Mines and Works Inspection Variation Regulations 2014 (No 256 of 2014), Pt 3

6—Transitional provision

A member of the Board of Examiners for Mine Managers ceases to hold office on the commencement of these regulations.

***Mines and Works Inspection (SACAT) Variation Regulations 2018
(No 182 of 2018), Sch 1***

1—Transitional and other provisions

- (1) A right to apply to the Minister for review of a decision of the Chief Inspector under clause 13 of Schedule 1 of the principal regulations in existence before the relevant day (but not exercised before that day) will be exercised as if clause 13, as varied by regulation 4 of these regulations, had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Minister (and the person appointed to conduct the review).
- (2) Nothing in this clause affects any proceedings commenced under clause 13 of Schedule 1 of the principal regulations before the relevant day.
- (3) In this clause—

principal regulations means the *Mines and Works Inspection Regulations 2013*;

relevant day means the day on which these regulations come into operation;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

Historical versions

1.7.2014

30.10.2014

1.7.2015

1.7.2016

1.7.2017

1.7.2018

4.10.2018

1.7.2019

1.7.2020