

South Australia

Mines and Works Inspection Variation Regulations 2014

under the *Mines and Works Inspection Act 1920*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Mines and Works Inspection Regulations 2013*

- 4 Variation of regulation 3—Interpretation
- 5 Substitution of Schedule 1

Schedule 1—Certificates and permits

Part 1—Qualifications and issue

- 1 First-class underground mine-manager's certificate
- 2 Second-class underground mine-manager's certificate
- 3 First-class quarry-manager's certificate
- 4 Second-class quarry-manager's certificate
- 5 Restricted certificates
- 6 Temporary certificates
- 7 General requirements for certificates
- 8 Examinations
- 9 Permits
- 10 Record

Part 2—Suspension and cancellation

- 11 Suspension and cancellation
- 12 Immediate suspension
- 13 Review of decision
- 14 Inquiries by Chief Inspector

Part 3—Rules

- 15 Rules

Part 3—Transitional provision

- 6 Transitional provision
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Mines and Works Inspection Variation Regulations 2014*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Mines and Works Inspection Regulations 2013*

4—Variation of regulation 3—Interpretation

Regulation 3(1), definition of *Board of Examiners*—delete the definition

5—Substitution of Schedule 1

Schedule 1—delete the Schedule and substitute:

Schedule 1—Certificates and permits

Part 1—Qualifications and issue

1—First-class underground mine-manager's certificate

Subject to this Schedule, the Chief Inspector may grant a first-class underground mine-manager's certificate—

- (a) to a person who—
 - (i) has practical experience in underground mining for not less than 3 years; and
 - (ii) holds a degree or diploma in mining engineering from a university or other tertiary institution in Australia, or from another education body recognised by the Chief Inspector for the purposes of these regulations; and
 - (iii) has passed a written examination in mining law, environment and occupational health and safety law set by the Chief Inspector; or
- (b) to a person who—
 - (i) has experience and holds qualifications accepted by the Chief Inspector as being equivalent to the experience and qualifications required by paragraph (a)(i) and (ii); and
 - (ii) has passed a written examination in mining law, environment and occupational health and safety law set by the Chief Inspector.

2—Second-class underground mine-manager's certificate

Subject to this Schedule, the Chief Inspector may grant a second-class underground mine-manager's certificate to a person who—

- (a) has practical experience in underground mining for not less than 3 years; and
- (b) holds qualifications considered by the Chief Inspector as being sufficient for the management of an underground mine where up to 19 persons may work in any period of 24 hours; and
- (c) has passed a written examination in mining law, environment and occupational health and safety law set by the Chief Inspector.

3—First-class quarry-manager's certificate

Subject to this Schedule, the Chief Inspector may grant a first-class quarry-manager's certificate—

- (a) to a person who—
 - (i) has practical experience in quarrying for not less than 3 years; and
 - (ii) holds a degree or diploma in mining engineering from a university or other tertiary institution in Australia, or from another education body recognised by the Chief Inspector for the purposes of these regulations; and
 - (iii) has passed a written examination in mining law, environment and occupational health and safety law set by the Chief Inspector; or
- (b) to a person who—
 - (i) has experience and holds qualifications accepted by the Chief Inspector as being equivalent to the experience and qualifications required under paragraph (a)(i) and (ii); and
 - (ii) has passed a written examination in mining law, environment and occupational health and safety law set by the Chief Inspector.

4—Second-class quarry-manager's certificate

Subject to this Schedule, the Chief Inspector may grant a second-class quarry-manager's certificate—

- (a) to a person who has had practical experience in mining or quarrying for not less than 3 years and who has passed the examinations conducted by the Chief Inspector for candidates for second-class quarry-manager's certificates; or

- (b) to a person who has experience and holds qualifications accepted by the Chief Inspector as being equivalent to the experience and qualifications required under paragraph (a).

5—Restricted certificates

- (1) If an applicant for a certificate satisfies the Chief Inspector that the applicant is qualified by experience and knowledge to manage a mine at which he or she will be employed, or mines of a specified class, but the Chief Inspector is not satisfied that the applicant is entitled to an ordinary certificate, the Chief Inspector may (subject to subclause (2)) issue a restricted certificate to the applicant.
- (2) The applicant must pass a written examination in mining law, environment and occupational health and safety law set by the Chief Inspector before a certificate may be issued.
- (3) A restricted certificate must contain a statement of the particular mine or particular class of mines that the holder of the certificate is entitled to manage.
- (4) A restricted certificate does not entitle the holder of the certificate to be a manager of a mine other than a mine indicated by the certificate.

6—Temporary certificates

- (1) The Chief Inspector may, if he or she considers it expedient to do so, issue to a person (whether or not qualified for a permanent certificate under these regulations) a temporary certificate.
- (2) The person must pass a written examination in mining law, environment and occupational health and safety law set by the Chief Inspector before a temporary certificate may be issued.
- (3) A temporary certificate—
 - (a) will be in force for the period specified by the Chief Inspector in the certificate; and
 - (b) will, while in force, have the same effect as an ordinary certificate of the same kind; and
 - (c) may be granted subject to terms and conditions specified by the Chief Inspector.

7—General requirements for certificates

- (1) A certificate will not be granted to a person unless the person—
 - (a) applies for the certificate on a form provided by the Chief Inspector and satisfies the Chief Inspector of the facts that give the person the right to be granted a certificate; and
 - (b) satisfies the Chief Inspector that he or she is a fit and proper person to be the holder of a certificate; and
 - (c) is at least 25 years of age; and
 - (d) pays the appropriate fee specified by Schedule 3.

- (2) The Chief Inspector will determine the form of a certificate, and may specify in the certificate—
 - (a) a statement of any limitations or restrictions on the effect of the certificate;
 - (b) a statement of any qualifications taken into account by the Chief Inspector in granting the certificate;
 - (c) other information determined to be appropriate by the Chief Inspector.

8—Examinations

- (1) The Chief Inspector will hold examinations in mining law, environment and occupational health and safety law as required for candidates for certificates who have otherwise satisfied the requirements of this Schedule.
- (2) The Chief Inspector must hold examinations for second-class quarry managers' certificates not less frequently than once in every 2 years unless there are no candidates.
- (3) The subject of the examinations for second-class quarry-managers will be as follows:
 - (a) Quarrying;
 - (b) Mathematics;
 - (c) Explosives;
 - (d) Quarry machinery.
- (4) The Chief Inspector may exempt a person from the obligation to pass an examination conducted by the Chief Inspector for the purposes of these regulations (other than the examination in mining law, environment and occupational health and safety law) if the person satisfies the Chief Inspector that he or she is sufficiently qualified in the subject of the examination.

9—Permits

- (1) The Chief Inspector may grant to a person a special permit to act as the manager of a mine where less than 10 persons work if the Chief Inspector is satisfied that the person has had sufficient practical experience in mining, and has sufficient knowledge of these regulations, and other regulations relating to safe and appropriate mining practices and procedures.
- (2) A special permit—
 - (a) will authorise the holder of the permit to act as manager only for the mine specified in the permit; and
 - (b) will remain in force for the period (not exceeding 12 months) specified in the permit; and
 - (c) may be granted subject to terms and conditions specified by the Chief Inspector.

10—Record

The Chief Inspector must keep a record of all certificates and permits issued under this Schedule.

Part 2—Suspension and cancellation

11—Suspension and cancellation

- (1) If the holder of a certificate or permit issued under this Schedule—
 - (a) contravenes or fails to comply with a requirement of the Act, these regulations, or other regulations or laws relating to safe or appropriate mining practices or procedures; or
 - (b) contravenes or fails to comply with a term or condition of the certificate or permit; or
 - (c) acts negligently or in an unsafe manner, or in a manner amounting to misconduct, in or in connection with the work of a manager; or
 - (d) ceases for any other reason to be a fit and proper person to be the holder of the certificate or permit,

the Chief Inspector may suspend or cancel the certificate or permit.

- (2) However, before taking action under subclause (1), the Chief Inspector must give the holder of the certificate or permit a notice in writing—
 - (a) stating the proposed action; and
 - (b) stating the reasons for the proposed action; and
 - (c) inviting him or her to show, within a specified time (of at least 21 days), why the proposed action should not be taken.
- (3) If, after considering any representation made within the specified time, the Chief Inspector still considers that action should be taken, the Chief Inspector may—
 - (a) suspend the certificate or permit for a specified period, until the fulfilment of specified conditions, or until further order; or
 - (b) cancel the certificate or permit; or
 - (c) take other action (for example, by attaching conditions to the certificate or permit) determined by the Chief Inspector to be appropriate in the circumstances.
- (4) The Chief Inspector must inform the relevant person of the decision by notice in writing.
- (5) If the Chief Inspector takes action under subclause (3), the notice must also state the reasons for the action.

12—Immediate suspension

- (1) If the Chief Inspector considers that there would be an immediate threat to safety at a mine unless a certificate or permit is suspended immediately, the Chief Inspector may, without following the procedures set out in clause 11, suspend the certificate or permit immediately for a period, and on terms, specified in a written notice of suspension given to the holder of the certificate or permit.
- (2) The Chief Inspector may—
 - (a) withdraw a suspension under this clause at any time; or
 - (b) extend a suspension under this clause (pending resolution of the matter under clause 11, as appropriately modified to meet the circumstances of the case).

13—Review of decision

- (1) Subject to this clause, a person who is (or has been) the holder of a certificate or permit and who is aggrieved by a decision of the Chief Inspector to suspend or cancel the certificate or permit may, within 14 days after receiving notice of the relevant decision, apply for a review of the matter under this clause.
- (2) The application for review—
 - (a) must be made in writing to the Minister; and
 - (b) must contain a statement of the grounds on which the review is requested.
- (3) A person applying for a review must ensure that a copy of the application is served on the Chief Inspector within 3 business days after the application is made to the Minister.
- (4) Unless otherwise specifically directed by the Chief Inspector, the operation of the decision to which the review relates is suspended pending the outcome of the review.
- (5) On the receipt of an application for review, the Minister must, in consultation with the Attorney-General, appoint an independent person to review the relevant decision.
- (6) In conducting a review, the person appointed under subclause (5)—
 - (a) must give the applicant and the Chief Inspector a reasonable opportunity to submit evidence, information and arguments relevant to the matters in issue; and
 - (b) is not bound by the rules of evidence, but may inform himself or herself on a matter as he or she thinks fit; and
 - (c) may determine the procedure to be followed in the matter.

- (7) At the conclusion of the review, the person appointed under subclause (5) may do 1 or more of the following:
 - (a) affirm, vary or quash the relevant decision or substitute, or make in addition, a decision that the person thinks appropriate;
 - (b) remit the matter to the Chief Inspector for further consideration;
 - (c) make further or other orders that are appropriate to the circumstances of the case.

14—Inquiries by Chief Inspector

- (1) The Chief Inspector may at any time conduct an inquiry into the conduct of the holder of a certificate or permit to establish whether or not the person should continue to hold the certificate or permit.
- (2) An inquiry under subclause (1) will be conducted in such manner as the Chief Inspector thinks fit.

Part 3—Rules

15—Rules

- (1) The Chief Inspector may make rules relevant to the performance of his or her functions under this Schedule.
- (2) The rules may—
 - (a) provide for the manner and form in which applications may be made to the Chief Inspector;
 - (b) provide for the information and material that must accompany an application;
 - (c) prescribe courses of study, and deal with examinations conducted by the Chief Inspector;
 - (d) provide for the recognition of qualifications and experience obtained or gained outside the State;
 - (e) deal with such other matters as may necessary or expedient for the effective and efficient performance of the Chief Inspector's functions under this Schedule.

Part 3—Transitional provision

6—Transitional provision

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

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 30 October 2014

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