

South Australia

MINES AND WORKS INSPECTION REGULATIONS 1998

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LEGISLATIVE HISTORY

REGULATIONS UNDER THE MINES AND WORKS INSPECTION ACT 1920

Mines and Works Inspection Regulations 1998

being

No. 171 of 1998: *Gaz.* 21 August 1998, p. 579¹

as varied by

No. 44 of 1999: *Gaz.* 27 May 1999, p. 2782²

No. 43 of 2000: *Gaz.* 25 May 2000, p. 2677³

No. 114 of 2001: *Gaz.* 31 May 2001, p. 2088⁴

¹ Came into operation 1 September 1998: reg. 2.

² Came into operation 1 July 1999: reg. 2.

³ Came into operation 1 July 2000: reg. 2.

⁴ **Came into operation 1 July 2001: reg. 2.**

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *Entries appearing in bold type indicate the amendments incorporated since the last consolidation.*
- *For the legislative history of the regulations see Appendix.*

2.

**PART 1
PRELIMINARY**

Citation

1. These regulations may be cited as the *Mines and Works Inspection Regulations 1998*.

Commencement

2. These regulations will come into operation on 1 September 1998.

Revocation

3. All regulations previously made under the *Mines and Works Inspection Act 1920* are revoked.

Interpretation

4. (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;

"**Board of Examiners**" means the Board of Examiners for Mine Managers continued in existence under schedule 1;

"**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 Department of the Minister to whom the administration of the Act is committed;

"**Director**" means the Chief Executive of the Department;

"**manager**" means the person who for the time being has the immediate charge or direction of mining operations on a mine and includes a temporary manager, or other person appointed in accordance with these regulations to act in the absence of a manager;

"**petroleum**" has the same meaning as in the *Petroleum Act 1940*;

"**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*;

3.

"**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 the manager and any contractor will be included if the manager or contractor is working in the mine.

(3) A reference in these regulations to a certificate or permit (as a qualification for a manager (or a temporary manager) of a mine) is a reference to a certificate or permit issued under schedule 1.

4.

**PART 2
ADMINISTRATION**

DIVISION 1—MANAGERS

Appointment of a manager

5. (1) If—

- (a) 10 or more persons are to work at a mine in any period of 24 hours; or
- (b) the Chief Inspector directs, by notice in writing served on the owner of a mine, that an appointment should be made under this Division (in a case where less than 10 persons are to work at the mine in any period of 24 hours),

then the owner of the mine must—

- (c) —
 - (i) if paragraph (a) applies—before the commencement of work at the mine;
 - (ii) if paragraph (b) applies—within the time specified in the notice,
- appoint a suitable person who holds the appropriate qualifications¹ as the manager of the mine, and then ensure that the position is filled on an on-going basis; and
- (d) ensure that the manager supervises the mining operations at the mine (except during a period of temporary absence).

(2) If the manager of a mine is absent, or intends to be absent, from the mine for seven or more days, the owner of the mine must—

- (a) appoint a suitable person who holds the appropriate qualifications² as the temporary manager of the mine; and
- (b) ensure that the temporary manager supervises the mining operations at the mine during the absence of the manager (except during a period of temporary absence on the part of the temporary manager).

(3) Whenever the manager or temporary manager is absent from the mine for any length of time while the mine is working, the owner of the mine, or a person authorised in writing by the owner of the mine, must ensure that a competent person is in charge or has direction of mining operations at the mine during that absence.

(4) The owner of a mine may appoint himself or herself under a preceding subregulation if appropriately qualified.

¹See regulation 6.

²See regulation 6.

5.

(5) A person must not accept appointment, or act, as the manager (or temporary manager) of more than one mine.

(6) If a manager (or temporary manager) has not been appointed for a particular mine then the owner of the mine (or if the mine is jointly owned, each of the owners) will be taken to be the manager of the mine for the purposes of any regulation that imposes a duty or responsibility on the manager of a mine (without affecting any duty or responsibility as the owner of the mine).

Qualifications for manager

6. For the purposes of these regulations, an appropriate qualification is—

(a) for the manager (or temporary manager) of an underground mine—

- (i) if 20 or more persons are working at the mine in any period of 24 hours—a first-class underground mine-manager's certificate;
- (ii) if between 10 and 19 persons (inclusive) are working at the mine in any period of 24 hours—a first-class or second-class underground mine-manager's certificate;
- (iii) if less than 10 persons are working at the mine in any period of 24 hours—a first-class or second-class underground mine-manager's certificate, or a special permit;

(b) for the manager (or temporary manager) of a quarry—

- (i) if 20 or more persons are working at the quarry in any period of 24 hours—a first-class quarry-manager's certificate;
- (ii) if between 10 and 19 persons (inclusive) are working at the quarry in any period of 24 hours—a first-class or second-class quarry-manager's certificate;
- (iii) if less than 10 persons are working at the quarry in any period of 24 hours—a first-class or second-class quarry-manager's certificate, or a special permit.

Notice of appointment

7. The owner of a mine must, within three business days after making an appointment under this Division, furnish the Chief Inspector with a notice in writing stating the name and address of the person who has been appointed, and particulars of the person's qualifications.

DIVISION 2—COMMENCEMENT AND CESSATION OF WORK

Approval to undertake certain activities

8. (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

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- (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.

(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 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 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.

Notices

9. (1) The owner of a mine must, within three 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, the name and address of the manager of the mine, and the qualifications held by the manager of the mine; 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 PROGRAMMES

Plans and programmes

10. (1) The Chief Inspector may, by notice in writing served on the owner of a mine, require that one 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 programmes 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 programme 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 three copies of each map, plan, section or programme 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 programme is kept at the mine office; and
 - (d) —
 - (i) that each map, plan and section is, at intervals not exceeding seven years, and immediately before the abandonment of the mine, up-dated to show the current workings and operations of the mine, or the state of the mine, that three copies of each up-dated document are then immediately delivered to the Chief Inspector, and that the original (or an accurate copy) of each up-dated document is kept at the mine office; and
 - (ii) that a development programme is, at intervals not exceeding seven years or such other period as the Chief Inspector may determine, up-dated, that three copies of the up-dated document is then immediately delivered to the Chief Inspector, and that the original (or an accurate copy) of the up-dated 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 programmes 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 up-date a development programme 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 programme, in its original form or as up-dated, as the case may require; or
- (b) the Chief Inspector has given a specific approval for the work.

8.

(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 programme.

(6) An inspector or authorised person may, at any reasonable time, with or without an assistant, inspect and examine any map, plan, section or programme kept at a mine.

(7) A person who has the possession, custody or control of a map, plan, section or programme kept at a mine must, at the request of an inspector or authorised person, produce the document for inspection or examination.

DIVISION 4—INSPECTIONS

Duty to facilitate inspections

11. The manager 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

Duty to provide equipment

12. (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

General duties

13. (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.

Conservation of top soil

14. 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.

Protection from damage

15. (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 two 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).

Decommissioning notices

16. 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.

Decommissioning requirements

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

Rehabilitation

18. The owner of a mine (or, as the case requires, the former owner of a mine) must, within two 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**

Exemption

19. (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.

Offences

20. (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 manager 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.

General defence

21. It is a defence to a charge for 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.

Fees

22. The fees set out in schedule 3 are payable as specified in that schedule.

SCHEDULE 1

PART 1 BOARD OF EXAMINERS

Continuation of Board

1. (1) The *Board of Examiners for Mine Managers* continues in existence.

(2) Subject to this schedule, the Board of Examiners consists of—

(a) the Chief Inspector; and

(b) two or more members appointed by the Governor.

(3) At least one member of the Board of Examiners must hold a first-class underground mine-manager's certificate and at least one member must hold a first-class quarry-manager's certificate.

Terms and conditions of office

2. (1) A member of the Board of Examiners (other than the Chief Inspector) will be appointed on conditions, and for a term (not exceeding three years), determined by the Governor and, on the expiration of a term of office, is eligible for reappointment.

(2) The Governor may remove a member of the Board of Examiners from office—

(a) for breach of, or non-compliance with, a condition of appointment; or

(b) for misconduct; or

(c) for failure or incapability to carry out official duties satisfactorily.

(3) The office of a member of the Board of Examiners becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) is removed from office under subclause (2).

Proceedings, etc.

3. (1) Three members constitute a quorum of the Board of Examiners.

(2) The Chief Inspector will, if present at a meeting of the Board of Examiners, preside at the meeting.

(3) If there is a casual vacancy in the office of Chief Inspector, the Governor may appoint a person to preside at meetings of the Board of Examiners (and to act as a member of the Board of Examiners) until the vacancy is filled.

(4) If the Chief Inspector is unable to attend a meeting of the Board of Examiners, the Director may appoint an inspector to preside at the meeting (and to act as a member of the Board of Examiners).

(5) A decision carried by a majority of votes of members present at a meeting of the Board of Examiners is a decision of the Board of Examiners.

(6) Each member present at a meeting of the Board of Examiners has one vote on a question arising for decision and, if the votes are equal, the person presiding at the meeting has a second or casting vote.

14.

(7) The Board of Examiners must have accurate minutes kept of its proceedings.

(8) Subject to this schedule, the Board of Examiners may determine its own procedures.

Validity of acts and proceedings

4. An act or proceeding of the Board of Examiners is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

**PART 2
CERTIFICATES AND PERMITS—QUALIFICATION AND ISSUE**

First-class underground mine-manager's certificate

5. (1) Subject to this schedule, the Board of Examiners 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 three 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 Board of Examiners 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 Board of Examiners; or

(b) to a person who—

- (i) has experience and holds qualifications accepted by the Board of Examiners 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 Board of Examiners.

(2) A person holding a first-class mine-manager's certificate immediately before the commencement of these regulations will be taken to have been granted a first-class underground mine-manager's certificate and a first-class quarry-manager's certificate under these regulations (subject to any restrictions imposed by the Board of Examiners).

Second-class underground mine-manager's certificate

6. (1) Subject to this schedule, the Board of Examiners 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 three years; and

(b) holds qualifications considered by the Board of Examiners 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 Board of Examiners.

(2) A person holding a second-class mine-manager's certificate immediately before the commencement of these regulations will be taken to have been granted a second-class underground mine-manager's certificate and a second-class quarry-manager's certificate under these regulations (subject to any restrictions imposed by the Board of Examiners).

First-class quarry-manager's certificate

7. (1) Subject to this schedule, the Board of Examiners may grant a first-class quarry-manager's certificate—

- (a) to a person who—
 - (i) has practical experience in quarrying for not less than three 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 Board of Examiners 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 Board of Examiners; or
- (b) to a person who—
 - (i) has experience and holds qualifications accepted by the Board of Examiners 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 laws set by the Board of Examiners.

(2) A person holding a quarry-manager's certificate immediately before the commencement of these regulations will be taken to have been granted a first-class quarry-manager's certificate under these regulations (subject to any restrictions imposed by the Board of Examiners).

Second-class quarry Manager's certificate

8. Subject to this schedule, the Board of Examiners 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 three years and who has passed the examinations conducted by the Board of Examiners for candidates for second-class quarry-manager's certificates; or
- (b) to a person who has experience and holds qualifications accepted by the Board of Examiners as being equivalent to the experience and qualifications required under paragraph (a).

Restricted certificates

9. (1) If an applicant for a certificate satisfies the Board of Examiners 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 Board of Examiners is not satisfied that the applicant is entitled to an ordinary certificate, the Board of Examiners may (subject to subregulation (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 Board of Examiners 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.

Temporary certificates

10. (1) The Board of Examiners may, if it 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 Board of Examiners before a temporary certificate may be issued.

(3) A temporary certificate—

- (a) will be in force for the period specified by the Board of Examiners 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 Board of Examiners.

General requirements for certificates

11. (1) A certificate will not be granted to a person unless the person—

- (a) applies for the certificate on a form provided by the Board of Examiners and satisfies the Board of Examiners of the facts that give the person the right to be granted a certificate; and
- (b) satisfies the Board of Examiners 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 Board of Examiners 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 Board of Examiners in granting the certificate;
- (c) other information determined to be appropriate by the Board of Examiners.

Examinations

12. (1) The Board of Examiners 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 Board of Examiners must hold examinations for second-class quarry managers' certificates not less frequently than once in every two years unless there are no candidates.

(3) The subject of the examinations for second-class quarry-managers will be as follows:

- 1. Quarrying
- 2. Mathematics
- 3. Explosives
- 4. Quarry machinery.

(4) The Board of Examiners may exempt a person from the obligation to pass an examination conducted by the Board of Examiners 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 Board of Examiners that he or she is sufficiently qualified in the subject of the examination.

Permits

13. (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 condition specified by the Chief Inspector.

Record

14. The Board of Examiners must keep a record of all certificates and permits issued under this schedule.

**PART 3
CERTIFICATES AND PERMITS—SUSPENSION AND CANCELLATION**

Suspension and cancellation

15. (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 Board of Examiners may suspend or cancel the certificate or permit.

(2) However, before taking action under subclause (1), the Board of Examiners 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 Board of Examiners still considers that action should be taken, the Board of Examiners 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

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(c) take other action (for example, by attaching conditions to the certificate or permit) determined by the Board of Examiners to be appropriate in the circumstances.

(4) The Board of Examiners must inform the relevant person of the decision by notice in writing.

(5) If the Board of Examiners takes action under subclause (3), the notice must also state the reasons for the action.

Immediate suspension

16. (1) If the Board of Examiners considers that there would be an immediate threat to safety at a mine unless a certificate or permit is suspended immediately, the Board of Examiners may, without following the procedures set out in clause 15, 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) A suspension under subclause (1) cannot exceed six weeks except with the concurrence of the Minister.

(3) The Board of Examiners may—

(a) withdraw a suspension under this clause at any time;

(b) with the concurrence of the Minister, extend a suspension under this clause (pending resolution of the matter under clause 14, as appropriately modified to meet the circumstances of the case).

Review of decision

17. (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 Board of Examiners 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, or the secretary of the Board of Examiners, within three business days after the application is made to the Minister.

(4) Unless otherwise specifically directed by the Board of Examiners, 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 Board of Examiners 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.

19.

(7) At the conclusion of the review, the person appointed under subsection (5) may do one 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 Board of Examiners for further consideration;
- (c) make further or other orders that are appropriate to the circumstances of the case.

Inquiries by the Board

18. (1) The Board of Examiners 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 Board of Examiners thinks fit.

PART 4 RULES

Rules

19. (1) The Board of Examiners may make rules relevant to the performance of its functions.

(2) The rules may—

- (a) provide for the manner and form in which applications may be made to the Board of Examiners;
- (b) provide for the information and material that must accompany an application;
- (c) prescribe courses of study, and deal with examinations conducted by the Board of Examiners;
- (d) provide for the recognition of qualifications and experience obtained or gained outside the State;
- (e) deal with other matters necessary or expedient for the effective and efficient operation of the Board of Examiners.

SCHEDULE 2*Prescribed Requirements for Plans and Programmes*

The following requirements are prescribed for the purposes of regulation 10:

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.

"**Protected sites**" means historic buildings, monuments, etc.

2. A working plan of the mine area or the proposed mine area, as the case may be, and sections (at least two, one longitudinal and one 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. A development programme 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.

SCHEDULE 3

Fees

1.	Application for a certificate under schedule 1	\$18.00
2.	Each subject for examination for a second-class quarry manager's certificate under schedule 1	\$11.30
3.	Examination in mining law, environment and occupational health and safety law under schedule 1	\$11.30
4.	Issue of a certificate under schedule 1	\$27.75
5.	Issue of a replacement certificate	\$18.00

APPENDIX

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last consolidation)

Schedule 3: substituted by 44, 1999, reg. 3; 43, 2000, reg. 3; **114, 2001, reg. 3**