

Queensland



**MINING AND OTHER
LEGISLATION
AMENDMENT BILL 2000**

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2000

A BILL

FOR

**An Act to amend certain Acts administered by the Minister for Mines
and Energy and Minister Assisting the Deputy Premier on
Regional Development**

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Mining and Other Legislation Amendment Act 2000*.

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**PART 2—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS’ SUPERANNUATION ACT 1989**

6

7

Act amended in pt 2

8

Clause **2.** This part amends the *Coal and Oil Shale Mine Workers’ Superannuation Act 1989*.

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Amendment of title

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Clause **3.** Title, from ‘**the transfer of**’ to ‘**Superannuation Fund**’—

12

omit, insert—

13

‘**superannuation fund contributions by employers and employees in the coal and oil shale mining industries**’.

14

15

Insertion of new part heading

16

Clause **4.** Before section 1—

17

insert—

18

‘PART 1—PRELIMINARY’.

19

Mining and Other Legislation Amendment

	Amendment of s 2 (Definitions)	1
Clause	5.(1) Section 2, definitions “ contributor ”, “ existing pensioner ”, “ fund ”, “ mine worker ”, “ previous Act ” and “ tribunal ”—	2 3
	<i>omit.</i>	4
	(2) Section 2—	5
	<i>insert—</i>	6
	‘ “mine” means a coal or oil shale mine.	7
	‘ “mine worker” see section 3.	8
	‘ “owner” , of a mine—	9
	(a) means a person who is the proprietor, lessee or occupier of a mine or any part of a mine but does not include—	10 11
	(i) a person who merely receives a royalty, rent or fine from the mine; or	12 13
	(ii) the proprietor of a mine that is subject to a lease, grant or licence to another person for working the mine; or	14 15
	(iii) a person who is merely the owner of the soil and has no interest in the coal or oil shale of the mine; and	16 17
	(b) includes the holder of an exploration permit for coal under the <i>Mineral Resources Act 1989</i> .’.	18 19
	Replacement of ss 3–5	20
Clause	6. Sections 3 to 5—	21
	<i>omit, insert—</i>	22
	‘Meaning of “mine worker”	23
	‘ 3.(1) The following persons are mine workers—	24
	(a) a person employed, whether underground or above ground, in or about a mine by the owner of the mine;	25 26
	(b) a person employed by the owner of a mine principally to transport coal or oil shale from the mine to a railway line, wharf, processing works or other point of delivery;	27 28 29

Mining and Other Legislation Amendment

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|---|-------------------|
| (c) an elected official of an employee organisation of which the majority of members are mine workers; | 1
2 |
| (d) a superintendent, manager or under manager of a mine; | 3 |
| (e) a person (“ person A ”) employed by the owner of a mine in a capacity only indirectly connected with the working of the mine or only on a part-time or casual basis if— | 4
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6 |
| (i) appropriate contributions have been made to the superannuation fund by and for person A and the trustee has not decided that person A is not a mine worker for the purposes of this Act; or | 7
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9
10 |
| (ii) the trustee is satisfied person A is a mine worker for the purposes of this Act; | 11
12 |
| (f) a coke worker employed in or about a mine by the owner of the mine; | 13
14 |
| (g) a superintendent or an instructor of a mines rescue brigade. | 15 |
| ‘(2) A person is taken to be a mine worker if— | 16 |
| (a) the person is a member of a partnership that is the owner of a mine; and | 17
18 |
| (b) the person works, whether underground or above ground, in or about the mine; and | 19
20 |
| (c) the person would be a mine worker under subsection (1) if the person were employed by the partnership. | 21
22 |
| ‘(3) Also, a person (“ person B ”) is taken to be a mine worker if— | 23 |
| (a) another person (a “ contractor ”), carries out work in connection with the mine under an agreement between the contractor and the owner; and | 24
25
26 |
| (b) person B is employed by the contractor, whether underground or above ground, in or about the mine under either of the following awards to which the contractor is a respondent— | 27
28
29 |
| (i) the Coal Mining Industry (Production and Engineering) Consolidated Award 1997; | 30
31 |
| (ii) the Coal Mining Industry (Supervision and Administration) | 32 |

Mining and Other Legislation Amendment

Consent Award, 1990 Queensland; and	1
(c) person B would be a mine worker under subsection (1) if	2
person B carried out the same duties or performed the same work	3
as an employee of the owner.	4
‘(4) Also, a person (“ person C ”) is taken to be a mine worker if—	5
(a) a further person (a “ subcontractor ”), carries out work in	6
connection with the mine under an agreement between the	7
subcontractor and the contractor; and	8
(b) person C is employed by the subcontractor, whether underground	9
or above ground, in or about the mine under either of the	10
following awards to which the subcontractor is a respondent—	11
(i) the Coal Mining Industry (Production and Engineering)	12
Consolidated Award 1997;	13
(ii) the Coal Mining Industry (Supervision and Administration)	14
Consent Award, 1990 Queensland; and	15
(c) person C would be a mine worker under subsection (1) if	16
person C carried out the same duties or performed the same work	17
as an employee of the owner.	18
‘PART 2—CONTRIBUTIONS	19
‘Contributions to superannuation fund	20
‘4.(1) For each pay period for each mine worker, the following persons	21
must make contributions to the superannuation fund at the rates stated—	22
(a) the mine worker, at the rate of 2.5% of the award wage for a	23
coalcutting machineman under the Coal Mining Industry	24
(Production and Engineering) Consolidated Award 1997 (the	25
“ award wage ”);	26
(b) the mine worker’s employer, at the rate of 7.5% of the award	27
wage.	28
Maximum penalty for subsection (1)(b)—20 penalty units.	29

Mining and Other Legislation Amendment

- ‘(2) The following persons are employers for the class of mine worker stated in the section mentioned—
- (a) section 3(1)(a), (b), (d), (e) and (f)—the owner of the mine;
 - (b) section 3(1)(c)—the employee organisation;
 - (c) section 3(1)(g)—the mines rescue brigade;
 - (d) section 3(2)—the partnership;
 - (e) section 3(3)—the contractor;
 - (f) section 3(4)—the subcontractor.
- ‘(3) Contributions to be made under subsection (1) must be made within 14 days after the end of the mine worker’s pay period to which the contributions relate.
- ‘(4) Contributions to be paid under subsection (1) that are not paid within the period specified in subsection (3) are a debt payable to the trustee.
- ‘(5) Subsection (1) does not apply when a mine worker is on unpaid leave.
- ‘(6) In subsection (5)—
- “unpaid leave”**, for a mine worker, means leave during which the mine worker is, with the consent of the mine worker’s employer, absent without remuneration from employment and includes parental leave, compassionate leave and special leave but does not include—
- (a) sick leave during which the mine worker receives salary, wages or other remuneration from the employer; or
 - (b) leave during which the mine worker receives compensation under the *WorkCover Queensland Act 1996*.

**‘PART 3—TRANSITIONAL PROVISION FOR
MINING AND OTHER LEGISLATION AMENDMENT
ACT 2000**

‘Declaration about repealed s 3

‘5.(1) Any obligation to pay contributions in relation to a mine worker, mentioned in section 3 repealed by section 6 of the *Mining and Other Legislation Amendment Act 2000*, never applied when the mine worker was on unpaid leave.

‘(2) In subsection (1)—
“unpaid leave” has the same meaning as in section 4.’.

**PART 3—AMENDMENT OF COAL MINING SAFETY
AND HEALTH ACT 1999**

Act amended in pt 3

Clause 7. This part amends the *Coal Mining Safety and Health Act 1999*.

Amendment of s 14 (Meaning of “standard operating procedure”)

Clause 8. Section 14, ‘a way of working’—
omit, insert—
‘a documented way of working’.

Amendment of s 149 (Return of things that have been seized)

Clause 9. Section 149(1)—
insert—
‘(c) if a board of inquiry or coroner’s inquest involving the thing is started within 6 months, at the end of the inquiry or inquest.’.

	Amendment of s 186 (Membership and conduct of board proceedings)	1 2
Clause	10. Section 186(6) to (8)—	3
	<i>omit, insert—</i>	4
	‘(6) Inspectors and industry safety and health representatives are taken to be currently engaged in the mining industry.’	5 6
	‘(7) A member may be appointed for a term of not more than 5 years.’.	7
	Amendment of s 201 (Action to be taken in relation to site of accident or incident)	8 9
Clause	11. Section 201(1)(c), after ‘inspector’—	10
	<i>insert—</i>	11
	‘within 1 month after the accident or incident’.	12
	Amendment of s 258 (Court may order suspension or cancellation of certificate)	13 14
Clause	12. Section 258—	15
	<i>insert—</i>	16
	‘(3) A person dissatisfied with the industrial magistrate’s decision to suspend or cancel the person’s certificate of competency who wants to appeal against the decision, must appeal to the Industrial Court.’.	17 18 19
	Insertion of new s 275A	20
Clause	13. Part 17, division 2—	21
	<i>insert—</i>	22
	‘Disclosure of information	23
	‘ 275A.(1) A person must not disclose information concerning the personal affairs of a person or commercially sensitive information obtained by the person in the administration of this Act, unless the disclosure is made—	24 25 26 27

Mining and Other Legislation Amendment

- | | |
|--|--------|
| (a) with the consent of the person from whom the information was obtained; or | 1
2 |
| (b) in the administration of this Act; or | 3 |
| (c) in a proceeding under this Act or a report of the proceeding; or | 4 |
| (d) in a proceeding before a court in which the information is relevant to the issue before the court. | 5
6 |

Maximum penalty—100 penalty units. 7

‘(2) However, the chief inspector may communicate anything that comes to the chief inspector’s knowledge under this Act to an officer or authority responsible for administering a law of Queensland, the Commonwealth or another State about safety and health in mining. 8
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‘(3) This section does not limit the *Freedom of Information Act 1992*.’. 12

PART 4—AMENDMENT OF EXPLOSIVES ACT 1999 13

Act amended in pt 4 14

Clause **14.** This part amends the *Explosives Act 1999*. 15

Amendment of s 140 (Existing regulations) 16

Clause **15.** Section 140(5), ‘1 year after it commences’— 17
omit, insert— 18
 ‘on 30 June 2001’. 19

**PART 5—AMENDMENT OF MINING AND
QUARRYING SAFETY AND HEALTH ACT 1999**

	Act amended in pt 5	3
Clause	16. This part amends the <i>Mining and Quarrying Safety and Health Act 1999</i> .	4 5
	Amendment of s 72 (Duration of appointment)	6
Clause	17. Section 72(3)— <i>omit.</i>	7 8
	Amendment of s 183 (Membership and conduct of board proceedings)	9 10
Clause	18. Section 183(7) and (8)— <i>omit, insert—</i> '(7) A member may be appointed for a term of not more than 5 years.'	11 12 13
	Amendment of s 197 (Site not to be interfered with without permission)	14 15
Clause	19. Section 197(1), after 'incident'— <i>insert—</i> 'of a type prescribed by regulation,'.	16 17 18
	Amendment of s 198 (Action to be taken in relation to site of accident or incident)	19 20
Clause	20. Section 198(1)(c) and penalty— <i>omit, insert—</i> '(c) if the accident or incident is a type prescribed by regulation, forward the report to an inspector within 1 month after the	21 22 23 24

Mining and Other Legislation Amendment

	accident or incident.	1
	Maximum penalty—100 penalty units.’.	2
	Insertion of new s 228A	3
Clause	21. Part 14, division 1—	4
	<i>insert—</i>	5
	‘Application of div 1	6
	‘228A. This division applies to a proceeding under this Act.’.	7
	Amendment of s 229 (Proof of appointments and authority unnecessary)	8
		9
Clause	22. Section 229—	10
	<i>insert—</i>	11
	‘(2) Subsection (1) does not apply if reasonable notice is given to the party relying on the appointment or authority that the appointment or authority is to be challenged.’.	12
		13
		14