



**National Competition  
Policy Review  
of the  
Coal Mines Regulation  
Act 1982**

Issues Paper

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## **FOREWORD**

In 1995 the members of the Council of Australian Governments ratified the Competition Principles Agreement, as a component of the National Competition Policy (NCP). The Agreement, intended to encourage competition in private and government business activities, requires state governments to review legislation which may restrict competition and to remove restrictions on competition in line with the guiding principles of legislative review set out in the Agreement.

One of the acts nominated for review in accordance with the Agreement is the Coal Mines Regulation Act 1982. The first step in the review process is the release of this Issues Paper. The next step will be a period of consultation with all interested parties.

The NCP review of the Act will form part of the full scale review and reform of the Act, which has now commenced. This Issues Paper contains an initial analysis of NCP matters and raises issues and options in support of reform from an NCP perspective.

An open and frank discussion of these issues is vital as it is intended that the new Act will be developed in the light of National Competition Policy. The issues raised in this paper will be incorporated into the Green Paper for the full review.

The options and alternatives put forward in this paper are there only to encourage discussion and debate. The Review Committee and the Department do not support or oppose the options, and at this stage there is no commitment to reform of the Act in any particular areas.

I hope that the points raised in this paper will encourage discussion and debate in all sectors of the coal mining industry, and I encourage all groups to take an active role in the regulatory reform process.

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## **1. INTRODUCTION**

### **1.1 National Competition Policy**

The Competition Principles Agreement, endorsed by all members of the Council of Australian Governments (COAG) in April 1995, commits the NSW Government to review legislation that may restrict competition and to remove restrictions on competition in line with the guiding principles for legislation review set out in Clause 5(1) of the Agreement.

COAG, established in 1992, comprises the Prime Minister, Premiers, Chief Ministers and the president of the Australian Local Government Association. COAG meets to discuss policy issues of national significance, with the aim of promoting co-operation among governments on reform of the national economy.

COAG met in 1994 and 1995 to consider the means by which competitiveness within Australia's business environment might be enhanced in order to achieve growth and confidence in the national economy. The National Competition Policy (NCP), ratified through a series of intergovernmental agreements and initiatives, is aimed at "increasing consumer and business choice, reducing production and transportation costs in an effort to lower prices for goods and services, and creating an overall business environment in which to improve Australia's international competitiveness".

One of the key components of the NCP package is the Competition Principles Agreement, which provides guidelines for implementation of the policy. The Agreement is intended to encourage competition in the business activities of governments and other sectors of the economy through legislative review, prices oversight of government business enterprises, application of competitive neutrality and structural reform of public monopolies.

### **1.2 Review of Legislation**

The Competition Principles Agreement requires state governments to review and reform legislation that may restrict competition. Under the terms of the Agreement, legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs, and
- the objectives of the legislation can only be achieved by restricting competition.

The NSW Government is presently reviewing legislation to determine whether it contains unnecessary, cumbersome or costly impediments to conducting business in a competitive market. The review is considering ways of achieving more effective regulation where there are clear benefits in government intervention in the market, including amending the legislation or providing alternative means for achieving an outcome.

### **1.3 Consideration of Public Benefit under NCP**

In carrying out legislative reform the NSW Government aims to promote commercial activity which will benefit NSW and minimise the regulatory burden on business where possible. It is generally considered that an effective regulatory framework for business must be balanced

with Government policy in relation to environmental protection, occupational health and safety, industrial relations, and access and equity issues.

It is intended that the application of the competition policy will complement the NSW Government's other economic, social and environmental policy objectives. While promoting marketplace competitiveness the Government will also be taking into account the social effects of increased competition in areas such as job seeking, security of employment and promotion, public and occupational health and safety, and consumer and environmental protection.

In accordance with the 1997 *Guidelines for Assessing Social Impacts*, designed to assist agencies in implementing the Government's social justice policy, coal mining legislation administered by the Department of Mineral Resources will be developed with a focus on workers' health and safety and the creation of an improved working environment. In promoting health and safety the Government will consult with all relevant sectors of the coal mining industry.

In response to community concern over safety in the coal industry the Government commissioned the Mine Safety Review in 1996. The Review investigated key issues of safety management and made a number of recommendations addressing specific areas of concern. Following the report by the Mine Safety Review, tripartite committees were set up to review and implement the recommendations.

The Mine Safety Council was established in 1998 to advise the Minister on strategic direction, regulatory standards and industry policy and performance measures. To assist and advise the Mine Safety Council formal consultative committees for the coal, metalliferous and quarry industries have been set up with representation from unions, industry and government. There are also plans to establish an industry data base on safety performance, with the intention of moving to a national standard, to enable the identification of best practice through the use of performances measures.

While the legislative and policy programmes of the Department of Mineral Resources largely impact directly on exploration and mining, the Department also operates within a wider framework of government natural resources policy, which includes other agencies with responsibility for community consultation and social impact assessment in areas such as the environment, national parks, forestry, water resources and agriculture.

Another important means of implementing social policy is through the ratification of international conventions. Australia (with the formal agreement of the States and Territories) has completed or is working towards ratification of several International Labour Organisation conventions relating to workplace health and safety. Once ratified, the terms of a convention are binding on member states.

The Convention on Labour Inspection (1947, ratified 1975) requires the maintenance of a system of labour inspection in industrial workplaces, to ensure the enforcement of legal provisions relating to conditions of work and the protection of workers. The Coal Mines Regulation Act 1982 implements labour inspection in industry as set out in the convention.

Other relevant conventions which have been classified as suitable for ratification, or whose terms have been included in “model regulations”, are:-

- Safety and Health in Mines (1995), which recognises that “it is desirable to prevent any fatalities, injuries or ill health affecting workers or members of the public, or damage to the environment arising from mining operations” and provides that application of the Convention shall be through national laws and regulations supplemented by, where appropriate, technical standards, guidelines or codes of practice;
- Chemicals (1990), requiring the formulation, implementation and periodical review of policy on safety in the use of chemicals at work;
- Occupational Safety and Health (1981), requiring a national policy on health and safety in the workplace;
- Working Environment (Air Pollution, Noise and Vibration, 1977), requiring measures to prevent or control hazards in the working environment due to air pollution, noise or vibration; and
- Guarding of Machinery (1963), providing that employers shall ensure that machinery is guarded so as to comply with regulations and standards of occupational safety and hygiene, and shall bring such regulations to the notice of workers.

#### **1.4 The Review Process**

In accordance with the requirements of the Agreement, a committee of officers of the Department of Mineral Resources, in consultation with the Cabinet Office, is reviewing the Coal Mines Regulation Act 1982 (CMRA) and Regulations to identify and assess restrictions on competition.

The NCP Review is being carried out as part of a broader review of the CMRA (see **4.3 Current Status of the Legislation**). The Terms of Reference for the review, approved by the then Minister for Mineral Resources in July 1998 and submitted to the Premier, are at Appendix A. There have been some minor subsequent amendments to the Terms of Reference.

This discussion paper raises preliminary issues and suggests amendments to the legislation and other alternative approaches. These proposals will now be subject to consultation with all interested parties, and submissions in response to this paper are invited.

Submissions need not be restricted to issues raised in this paper but they should take into account the Terms of Reference for the review. Submissions marked confidential will be treated in confidence, however may be subject to release under the provisions of the Freedom of Information Act 1989.

As part of the consultative process the committee will call upon the Mine Safety Council to direct consultation with its supporting advisory groups in respect of matters relevant to industry stakeholders. The proposed industry consultative framework is set out in Attachment B to the Terms of Reference. (Appendix A)

Following consultation with interested parties the committee will report to the Minister, who will then inform the Premier prior to Cabinet consideration. The report to the Minister will cover both the analysis and consultation phases of the review, advise as to the outcomes of the consultative process and provide recommendations in relation to the CMRA. The report will contain a list of the names of all parties involved in the consultation process including parties from whom submissions were received.

**It is emphasised that the options presented in this paper do not necessarily reflect the views of the Review Committee or the Department. The issues and options are put forward solely for the purpose of stimulating discussion and debate.**

## **2. THE COAL INDUSTRY**

### **2.1 The Coal Industry in Australia**

Coal is Australia's largest export industry, accounting for about 10% of total exports. About 70% of coal produced in Australia is now exported. The remainder is used in the domestic market mainly for electricity generation and steel production. In 1998-9 NSW exported 76.4 million tonnes of coal, worth about \$3.8 billion.

Australian coal production has grown rapidly since 1970. During the past decade productivity has doubled and exports have increased by over 78%. However due to an increase in open cut mines and improvements in mining techniques and workplace productivity, employment has declined since 1986.

There are about 120 mines in Australia, half of which are underground. Open cut mines now account for over 70% of production.

The largest corporate producer of coal in Australia is BHP (25%), followed by Rio Tinto, Oakbridge, Shell and MIM. The owners of coal mines in Australia include mining companies, energy companies and electricity producers. There is a significant level of foreign investment in the coal industry.

Since coal mining commenced in Australia in the nineteenth century it has provided an important input into the development of the economy, and is a major contributor to state government revenue. Coal mining accounts for 76% of income from mining in NSW, and for 52% of NSW mineral and metals exports income.

Coal is closely linked to other industries such as electricity generation, the rail network, and steel and mineral refining, and relies on "support" industries such as rail transport, ports and terminals and manufacturers of mining vehicles, machinery and equipment.

In recent years the profitability of the coal industry in Australia has generally declined due to depressed global prices and over-supply, increased competition and the high cost of operating mines (particularly underground mines). This has resulted in calls from the industry sector for improved performance.

There has also been recognition of the need to provide for separate management and operational requirements in relation to underground and open cut mines in order to promote greater flexibility and increased profitability in the open cut sector.

Pressure to increase productivity may have the effect of increasing competition between states, coal producers and individuals applying for employment in the coal industry. At the same time depressed coal prices have led to the scaling back of production at a number of mines with the potential to negatively affect employment and industry growth.

## **2.2 State Coal Production**

NSW and Queensland produce more than 95% of black coal in Australia, in about equal shares. NSW accounts for about 80% of underground production, Queensland about 60% of open cut production. NSW currently has 64 operating mines and 16 major development proposals. In 1998-9 saleable coal production in NSW was 103.4 million tonnes, and 10,400 people were employed at NSW coal sites (2,900 less than the previous year).

There are small black coal industries in South Australia (Leigh Creek open cut), Western Australia (Collie open cut) and Tasmania (underground). Brown coal is produced mainly in Victoria.

Queensland coal production, which is mainly open cut, continues to grow at a higher rate than NSW. However with the recent decline in profitability of the coal industry due to increased international competition and production costs, both states are considering changes to coal royalties, returns on port assets and rail freight services and charges.

Coal production in NSW is concentrated in the Sydney-Gunnedah Basin; in Queensland in the Bowen Basin. As a result, the effects of any developments or changes in the industry on employment have been highly regionalised.

## **2.3 The International Market**

Australia is the dominant coal exporter in the international market, with about 30% of the world's trade in coal. The principal buyer is Japan, followed by the Republic of South Korea, Taiwan, India and Hong Kong. Asian countries receive 88.5% of export coal. Coal is also exported to Europe (principal buyer is the United Kingdom) and South America.

Australia has achieved a highly successful export industry in coal due to its having abundant supplies of quality, easily accessible coal, established rail networks and port facilities close to coal deposits, proximity to the Asian market, and a long-established reputation as a reliable supplier.

The international market is dynamic and unpredictable. Changes in technology, substitution of coal types and sources, low-cost supply and changes in trade policies have increased competition in the market.

There has been a fall in coal prices due to oversupply in the market caused by uncertain demand following the recent downturn in the Asian economy. International customers now place pricing competitiveness over the traditional benefits of long-term stability, quality and reliability of supply.



Trading opportunities are also being affected by changing global environmental standards (following the Kyoto conference on climate change) and the use of natural gas in electricity generation.

Australia is experiencing increasing pressure from competition in the international market. Japan is now seeking lower cost fuel sources as a result of reforms to the electricity and steel industries and the decline in its economy. Australia now competes with low cost producers including China and Indonesia and with recently enhanced exporters such as the United States and South Africa.

Since 1990 supplies of coal from China and Indonesia have increased and those countries now supply over one-third of coal imports to Asia. The export capability of the United States has been increased by improvements to port capacity. The USA and South Africa supply the European market, and competitive developments in Europe can affect the Asian market which is also supplied by Australia.

The increase in low-cost suppliers and changes in production of steel and electricity are affecting trading arrangements in coal. Long term contracts are being replaced by sales by tender or on the spot market. This has affected Australia's arrangements with customers such as Japan.

Technological change in steel production has resulted in a reduction in the amount of coking coal required for the process. This has affected the price of Australian coking coal in the international market and led to increased competition with Indonesia and South America. This may be offset by the demand for high quality thermal coal, which Australia is able to supply. Australia also has the potential to increase thermal coal exports to developing markets such as India and China.

While it is considered that coal exports must remain competitive in order to take advantage of new international market opportunities, it is also anticipated that competition in the market will decrease after 2000 when it is predicted that Australia's competitors will experience limited premium coal supplies, reduced port capacity, increased domestic demand for coal and higher operating costs.

### **3. MINE SAFETY LEGISLATION**

Coal mining, and in particular underground coal mining, has long been recognised as a major hazardous undertaking. This view has been regularly reinforced by disasters such as Gretley in 1996 with the loss of four lives (and potentially many more). Legislation regulating health and safety in coal mines has tended towards a strict application of requirements with the belief, right or wrong, that such an approach is necessary for the potentially high consequences involved.

The general expectation in occupational health and safety regulation in economically developed countries is that everything reasonably practicable should be done to protect people in workplaces. This has been expressed as:

*To carry out a duty so far as is reasonably practicable means that the degree of risk in a particular activity or environment can be balanced against the time, trouble, cost and physical difficulty of taking measures to avoid the risk. If these are so disproportionate to the risk that it would be unreasonable for the persons concerned to have to incur them to prevent it, they are not obliged to do so. The greater the risk, the more likely it is that it is reasonable to go to very substantial expense, trouble and invention to reduce it. But if the consequences and the extent of risk are small, insistence on great expense would not be considered reasonable. It is important to remember that the judgment is an objective one and the size or financial position of the employer are immaterial.*

*(from the report of the Health and Safety Executive Successful Health and Safety Management, London 1991)*

Australia's peers in terms of social values and safety performance in coal mines are the USA and the UK. Internationally the structure of Australia's coal industry, in terms of the type of coal deposits and mining methods, is most similar to that of the USA and South Africa. South Africa has recently adopted coal mine health and safety legislation modelled closely on that of the UK. Due to these similarities, the USA and UK have been chosen as benchmark countries in considering competitive issues at an international level in this paper.

In the USA coal mining is subject to both Federal and State law, with the Federal act, the Mine Safety and Health Act 1977, being dominant. This is supported by a large amount of detailed regulation in the Code of Federal Regulations which is considerably more prescriptive than NSW regulations. In the UK the Mines and Quarries Act 1954 is progressively being replaced by regulations and Codes of Practice under the Health and Safety at Work Act 1974. This act provided the model for the NSW Occupational Health and Safety Act 1983 (OH&S Act) and its supporting codes of practice. The Health and Safety at Work Act applies throughout the UK and is jointly administered by the Health and Safety Executive and Local Authorities (Councils). In both the USA and UK an extensive body of law is applied to health and safety in coal mines.

In Australia occupational health and safety regulation is constitutionally a matter for the states, however there is federal involvement in areas such as ratification of relevant ILO Conventions.

Both NSW and Queensland have in place industry-specific occupational health and safety legislation. The Queensland legislation has recently been redrafted and it is anticipated that the Coal Mining Safety and Health Act 1999 will commence in the near future. In other states the coal industry is subject to occupational health and safety legislation applying to mining or to industry generally.

The legislation in NSW and Queensland covers both open cut and underground mines and prescribes site management structure, the qualifications, training and experience required for persons holding management positions and the functions of those positions.

The legislation also contains detailed provisions for safe mining operations. In 1996 the NSW Mine Safety Review encouraged reconsideration of the current mine safety legislation "in the context of the considerable range of size and types of operations, and of standards of safety performance".

## **4. THE COAL MINES REGULATION ACT 1982**

### **4.1 The CMRA and its Objectives**

The CMRA regulates coal mines, oil shale and kerosene shale mines and coal preparation plants. The act provides industry specific regulation of health and safety in NSW coal mines, as “associated” legislation to the Occupational Health and Safety Act 1983 (OH&S Act). The OH&S Act creates a general duty which requires employers to ensure the health, safety and welfare of their employees and others. The provisions of associated legislation such as the CMRA are to be observed *in addition* to the OH&S Act. Where a conflict arises between the OH&S Act and the CMRA, the OH&S Act prevails.

The CMRA applies to both underground and open cut coal mines. In section 5(1) “mine” is defined and it is provided that the Minister may declare whether a place or conduit is a part, or not, of a mine. (Generally those parts of a colliery holding on the surface of the land are taken to be the surface extent of a mine).

In addition, certain facilities on colliery holdings known as coal preparation plants may be declared to be suitable for management separately from a mine (s.145 B). At a “declared plant” coal is processed for sale. This includes the washing of coal and improvement of the grade of coal by removal of rock. A plant may become a declared plant on request of the owner. The constraints imposed on mines under the legislation, including the hierarchy of management, are to an extent relaxed at a declared plant.

The CMRA regulates the coal mining industry in NSW with the (unstated) primary objective of protecting the health and safety of those involved in, or affected by, the industry. In order to fulfil this objective, the CMRA creates a number of entities and puts in place certain arrangements to be followed at coal mines.

The objectives of the CMRA include:

- to provide a comprehensive safety and health code to protect the safety and health of persons employed in coal mines and provide for a safe working environment;
- to provide legislation with sufficient flexibility to allow for changes from time to time in line with changes in technology and practice, or with new hazards which may arise;
- to provide for the appointment of an inspectorate of coal mines with strong powers to oversee compliance with the law;
- to ensure that mines are properly and competently supervised at all times by competent managers and officials by providing for a flexible management structure;
- to establish a system of qualification of miners;
- to implement the recommendations of the inquiries into the Appin and West Wallsend accidents.

There is a strong element of oversight of the industry through the inspectorate. Government inspectors have defined qualifications and a range of powers to ensure compliance with the legislation and any imposed conditions. These inspectors are the coal industry equivalent of the general industrial inspectorate and, similarly, are given powers to issue prohibition or improvement notices to redress health and safety concerns. A recent addition to the inspection regime, in response to the NSW Mine Safety Review, has been the mine safety officer. The Review observed that there were many inspectoral tasks that did not require the high qualifications of inspectors and that there may be specialist areas where different qualifications were preferred.

In addition to Government inspectors, the workforce at coal mines may elect representatives to conduct inspections on their behalf. These are known as check inspectors. There are “local” check inspectors, for one mine, and “district” check inspectors who cover a number of mines in a district. Check inspectors have defined powers to carry out inspections, and district check inspectors are given a provisional power to direct the suspension of operations.

To provide for competent people in key controlling positions in coal mines the CMRA firstly creates the Coal Mining Qualifications Board, which oversees competence assessment and the issuing of certificates of competency. Secondly, the CMRA imposes a management hierarchy and defines the duties of each tier of management. A person may not be appointed to a management position unless they hold an appropriate certificate of competency. The management structure consists of a manager, undermanager and deputy (with a manager in charge of the mine at all times). The undermanager is in charge of a working shift and a deputy is in effect a front line supervisor in charge of a mining crew.

Mine managers are required under the CMRA to make a number of rules and schemes to cover certain high risk areas which must meet requirements specified in the regulations. Rules and schemes can be drawn up to meet the circumstances and requirements of individual mines. They operate as “local law” at a mine and have the standing of regulations. Rules and schemes must be approved by a Government inspector prior to their having effect, or before any revisions may have effect.

Training in the coal mining industry is principally controlled by an administrative order of the Joint Coal Board (JCB), known as Order 34. The CMRA supports this arrangement. The JCB was created by the Coal Industry Act 1946, passed jointly by Commonwealth and State. The JCB is given a number of functions including “to monitor, promote and specify adequate training standards relating to health and safety for workers engaged in the coal industry” and has provisional power to make orders to give effect to its functions.

The Mining Industry Training Advisory Board (MITAB) was recently established as part of the National Training Agenda. MITAB defines competencies for job classifications in the mining industry. Training providers may seek accreditation through the appropriate Vocational Education and Training Advisory Board (VETAB) which handles training and assessment for the competencies. This opens the provision of training to the marketplace.

The CMRA imposes controls on methods or systems of working in underground mines. Ministerial approval must be obtained to utilise a method other than what is known as the bord and pillar system, a simple rectangular mining layout (first workings) comprising mine roadways (bords) and interspersed columns of unmined coal (pillars). Approval is required to

subsequently remove or reduce in size the pillars by further mining (second workings). These approvals have been used to impose safety conditions, to control surface subsidence and to enhance resource recovery.

There is also the requirement that barriers of unmined coal are left between the workings of different underground mines as a means of separating the workings and preventing inrushes (as occurred at Gretley). A mine may also be required to leave protective pillars so that surface improvements are not disturbed by underground mining.

The CMRA has broad regulation making powers which allow controls to be placed on mines to address hazards which have become recognised in coal mining over time. In general the regulations impose compliance or entry costs, in terms of time, effort and monetary expense, on the coal industry itself or support industries. The benefits include provision of health and safety measures for coal industry workers.

## **4.2 Review of the Coal Mines Regulation Act 1982**

The CMRA and Regulations are being examined to determine whether the relevant provisions establish market entry barriers or sanctions, or require conduct which has the potential to restrict competitive behaviour in the coal mining industry.

The review aims to, among other things:

- clarify the objectives of the CMRA and their continuing appropriateness;
- identify the nature of the restrictive effects on competition;
- analyse the likely effect of any identified restriction on competition on the economy generally;
- assess and balance the costs and benefits of the restrictions identified; and
- consider alternative means for achieving the same result, *including non-legislative approaches*.

As part of the process of the review, competitive restrictions are identified and the costs and benefits of any restrictions are considered in the areas of personnel, company and operations, the industry sector (underground and open cut), the coal industry generally and its support industries. The review also assesses the impact of the restrictions on NSW as a state, including a comparison with the regulatory arrangements of its main competitor in the black coal industry, Queensland. Finally, competitive restrictions are considered on a national basis.

In general, legislation should not restrict competition unless the benefits of the restriction to the community outweigh the costs, and the objectives of the legislation can only be achieved by restricting competition. The review examines the means by which restrictions on competition may be removed or lessened. This may be achieved by amending the legislation or by non-legislative means.

In conducting the review and assessing the costs and benefits of the provisions of the CMRA and Regulations, the following are being taken into account:

- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to occupational health and safety, industrial relations, ecologically sustainable development and access and equity;
- economic and regional development, including employment and investment growth;
- the competitiveness of Australian businesses, and
- the efficient allocation of resources.

### Market Failure

In the course of the review steps are being taken to identify any issues of market failure which are being addressed, or which need to be addressed by the CMRA and Regulations. A market failure is a failure by a free and competitive market to provide the most desirable outcome for society as a whole.

In order to address instances of market failure, governments sometimes enact legislation. In this way governments intervene in the market and restrict competition with the aim of providing a socially beneficial outcome. Legislation in the areas of occupational health and safety and environmental protection are examples of this.

In the review it is important to assess whether regulatory controls are being imposed for reasons other than to address an instance of market failure, and whether the current controls represent the least “competition restricting” means of addressing market failure.

### Trade Practices Act 1974 and Competition Code

The review will also consider whether the effects of the legislation contravene the competitive conduct rules in Part IV of the (Commonwealth) Trade Practices Act 1974 (TPA), which sets out the Competition Code of NSW. Part IV prohibits certain types of conduct which may be described as restrictive trade practices, and includes the provision that any contract, arrangement or understanding entered into by a person which restricts dealings or lessens competition is unenforceable.

The Competition Policy Reform (NSW) Act 1995 extends the Competition Code to persons carrying on business in NSW, corporate, unincorporated or registered businesses, individuals resident in or connected with NSW and state government business enterprises.

### **4.3 Current Status of the Legislation**

It is intended that the CMRA will be completely reviewed and reformed in the near future. The new act will be developed in the light of competition policy, and the review of the CMRA will take into account issues raised in this paper and submissions received in response.

In the interim, amendments to the CMRA commenced on 30 July 1999 under the Mines Legislation Amendment (Mines Safety) Act 1998. The amendments include the introduction of mine safety officers, investigators and Boards of Inquiry, changes to the functions of inspectors, assessors and the Director-General of the Department of Mineral Resources,

provision for matters the subject of special reports to the Minister and improved safety measures for unused mines and outlets.

The previous 35 regulations under the CMRA were repealed on 1 September 1999 and replaced by 3 regulations: the Coal Mines (General) Regulation, the Coal Mines (Underground) Regulation and the Coal Mines (Open Cut) Regulation. The Regulations cover the administration and management of underground and open cut coal mines and coal preparation plants, and health and safety matters in relation to those mines and plants.

The new Regulations have been developed in accordance with the principles set out in the guidelines for regulatory reform *From Red Tape to Results - Government Regulation: A Guide to Best Practice*. These guidelines explain how alternative forms of regulation, greater clarity about the objectives for government intervention and “smarter” responses to social, economic and environmental problems can give the public the protection it seeks for the lowest possible cost. In implementing a best practice approach to regulation it is necessary to:

- identify the need for intervention by government by way of regulation, including assessing goals and alternatives;
- minimise the burden of regulation in relation to its impact on competitiveness and in respect of imposed controls; and
- examine the costs and benefits.

The new Regulations have the following objectives:

- to consolidate the subject matter of the previous regulations;
- to remove archaic and redundant provisions in the previous regulations;
- in respect of some provisions, to replace the requirement for approval under the regulation with codes, standards or guidelines;
- to reduce the regulatory burden on the open cut sector;
- to implement measures arising from the findings and recommendations of the Moura Inquiry in Queensland, and from the investigation into the explosion at the Endeavour colliery in NSW;
- to implement recommendations from the Gretley inquiry in NSW, especially with regard to inrushes; and
- to introduce more systems oriented approaches to safety management, in order to support the ultimate full-scale introduction of Mine Safety Management Plans.

The new Regulations follow a long process of review and do not cover the 30 July 1999 amendments to the CMRA. Regulations to support the amendments will be drafted separately. To date one supporting regulation has been drafted. The Coal Mines (Investigation) Regulation 1999, relating to the investigation of accidents and dangerous occurrences at coal mines, commenced on 1 September 1999.

The present review will consider the provisions of the CMRA, including the 30 July 1999 amendments, and the provisions of the 1 September 1999 Regulations.

In the review reference has been made to the legislation of Queensland, the United States, the United Kingdom and South Africa. In Queensland the Coal Mining Safety and Health Act 1999 will soon be in place and new regulations are being drafted. In the USA the coal mining industry is covered by both federal and state legislation. In this review reference has been made to the Federal Mine Safety and Health Act of 1977 and the supporting safety standards.

#### **4.4 Analysis of the CMRA and Regulations**

An initial analysis of the CMRA and Regulations has been carried out by the committee and is recorded in pro-forma in Appendix B. This is the first stage of the review process and a full assessment of costs and benefits and alternative options will be made following consultation, taking into account submissions by interested parties.

A list of the contents of the 3 Regulations is contained in Appendix C. The Regulations serve to qualify the provisions of the CMRA. In some instances the provisions of the Regulations are administrative and are considered to have no competitive impact. An analysis of the Regulations is recorded in pro-forma in Appendix D.

### **5. ISSUES ARISING FROM THE ANALYSIS**

The analysis has identified certain provisions of the CMRA and Regulations as having competitive restrictions. The issues which arise from such restrictions are now discussed, together with possible options for reform.

The review is considering the ways in which individuals operate within the labour market and the impact of possible restrictions on their freedom to compete in the market. Similarly, issues associated with competition between mines in the coal market are being canvassed, together with the effects on markets in the underground and open cut sectors, the coal mining industry generally, and the support industries.

In relation to the competitive impacts of the Regulations, it should be noted that under the Regulations a mine may apply for exemption from compliance with any provision. This may operate to promote innovation and flexibility within the industry.

#### **5.1 Interpersonal**

##### **Inspectors**

At present the inspectorate is made up of Departmental officers appointed by the Governor. There are currently barriers to appointment as an inspector in terms of the required qualifications and experience. A person must hold a certificate of competency and have prescribed years of experience working in an underground coal mine in Australia to be appointed as an inspector.



It is considered that changes in the new Regulations to inspectors' qualifications (to allow for the Minister to approve other experience), and the introduction of mine safety officers, will increase competitiveness in the inspectorate and provide a broader skills base.

There is generally considered to be a need for an independent, reliable system of oversight of coal mining operations. There may be scope for the development of other accredited bodies or agencies, such as occupational health and safety auditors, to carry out the functions of inspectors.

### *The Coal Mining Qualifications Board*

As a means of ensuring that sufficiently competent people are available for key positions in the coal industry, the Coal Mining Qualifications Board was established to oversee the granting of certificates of competency to mine managers, deputies, open cut examiners, surveyors and engineers. The ten members of the Board represent the various branches of the coal industry.

At present the composition and terms of reference of the Board are fixed. Under the provisions of the CMRA its operations are strictly defined and to some extent may be seen as inflexible. This may prevent the Board from easily responding to changing circumstances and emerging issues. For example, at present the Board does not have the power to make rules for the re-evaluation of certificate holders and there is no flexibility in the term of a certificate of competency.

Alternative options include the formation of an occupational association which may qualify and set standards for mine managers and officials under the Professional Standards Act (Appendix E), the further development of the Mining Industry Training Advisory Board, or accreditation through other registration or licensing schemes.

### *Workforce Representation*

The CMRA and Regulations provide for a district check inspector to be elected by members of the Construction Forestry Mining and Energy Union. The recent review of the Regulations raised the issue of whether a district check inspector can gain acceptance and provide effective representation at a non-union work site, given that he is a representative of the CFMEU. (The CMRA also provides for union participation in the election of check inspectors, as the person conducting the election must be appointed by union representatives).

An alternative which is currently available is for some of the functions of check inspectors to be carried out by an occupational health and safety committee set up under the Occupational Health and Safety (Committees in Workplaces) Regulation 1999. Another alternative may be a system of structured independent audits of the workplace carried out at regular intervals. These audits would report on workplace safety, but there would be no capacity for an immediate on-the-spot inspection should a problem arise.

### *Training Rules*

The training of employees within the NSW coal mining industry is largely controlled by the Joint Coal Board (under Order 34). A manager is presently obliged to implement training rules in accordance with a model supplied by the Board, and the training rules must be

approved by the Board. Training is oriented towards tasks rather than competencies and can involve the training and re-training of a worker for infrequently performed tasks. This may result in workplace inflexibility and unnecessary costs.

There is a need for a sufficiently competent workforce trained to acceptable industry standards. Alternative ways to achieve this may be through key competency based training developed and controlled by the NSW Mining Industry Training Advisory Board (which currently provides training and vocational advice to the mining industry and the NSW Government), or through an occupational association set up under the Professional Standards Act. The provision of training could be made contestable by establishing accreditation systems for providers of training.

## **5.2 Operations**

### **Mine Management**

The legislation defines the duties of mine owners in regard to the management of mines and sets up a hierarchy of mining officials with prescribed supervisory functions, including enforced daily attendance at the mine and fixed systems of issuing instructions and delegations. There is no differentiation in the CMRA between mine management in the underground and open cut sectors, while in practice there may be significant differences in management systems.

The legislation has the overall effect of restricting a company's control over management by limiting its capacity to introduce alternative management arrangements. This inflexibility may lead to lack of innovation and reduced performance and productivity. There are also the costs to the company of employing managers qualified to acceptable levels under the legislation, and these costs may increase when competent personnel are scarce.

An alternative option may be to provide in the legislation for a general duty on owners to ensure that key management positions are held by persons of sufficient competence and experience. The legislation may be redrafted to provide for the *general* objectives and outcomes to be achieved through management, rather than prescribing rigid codes of behaviour for mine officials.

In respect of the provisions which are more specifically directed towards protecting the health and safety of workers, such as the issuing of instructions by owners, it may be possible to rely on the provisions of the OH&S Act which define the responsibilities of employers.

### **Rules and Schemes**

The requirement for a mine manager to prepare mandatory rules or schemes covering certain mining operations, subject to government approval, may reduce companies' control over work practices and result in restricted performance. There is at present no provision for the review of rules and schemes, which may become out of date, affecting performance. The provision that rules and schemes cannot take effect until approved by a district inspector may delay or hamper operations.

An alternative to the present system of rules and schemes may be the adoption of hazard management models such as safety standards, applicable to all underground or to all open cut mines.

### Mine Safety Plans and Systems

Under the new Regulations mine operators are required to develop and implement mine safety management plans which incorporate all rules and schemes, systems, codes, standards, guidelines and, in the case of underground mines, the management structure. The Regulations also provide for the implementation of inspection systems, and for control systems to be put in place in key areas including inrush, ventilation, fire control and emergency, and explosion suppression.

The development of plans and systems requires time and expense on the part of mine operators and in this respect may be seen as having competitive restrictions. However these restrictions must be weighed against the benefits of having clear and comprehensive safe working plans and guidelines in a potentially hazardous industry.

There may be scope for examining alternative models for regulating health and safety. An alternative may be to adopt a similar approach to the Queensland legislation which imposes a general duty on a mine operator to ensure that a health and safety management system is developed, implemented and maintained, and defines the basic requirements of such a system.

### Safety Provisions

A number of provisions under the CMRA concerning mining operations are intended to protect the public and the environment as well as workers. These include provisions relating to the closing of shafts and outlets in abandoned mines, the control of emplacement areas (a place where reject mine material is dumped), the requirement for notice of operations to be given, the drilling of boreholes, methods and systems of mining, prospecting operations and tourist and educational activities at mines. The CMRA also provides detailed requirements for the operation of coal preparation plants.

Many of the above provisions involve government control by way of notice, approvals and enforced compliance with rules, orders and directions. While this may have the effect of restricting operations and lead to additional costs, these restrictions provide benefits by addressing hazards which may extend beyond the operating life of the mine, such as shafts and outlets and emplacement areas. The danger of failing to provide proper protection for such hazards was highlighted by the Aberfan disaster in Wales in 1966, where an emplacement site collapsed onto a village killing 144 people.

Alternative means of regulating for safety matters may be:

- the adoption of safety standards;
- the provision in the legislation of a general duty on owners/operators to ensure that a certain objective or outcome is achieved (as has been done in the Queensland legislation);

- to rely on the provisions of the OH&S Act, which set down general safety standards applicable to all workplaces in the state; and
- the use of other legislation to achieve the same result, such as the Mining Act to provide for controls over subsidence in mines through mining leases, and the Environmental Planning and Assessment Act to regulate in relation to the impact of mining on the environment.

### **5.3 Industry Sector**

#### *Underground and Open Cut Sectors*

The present act generally fails to effectively provide for the operational differences between underground and open cut mines. Both sectors tend to be subject largely to the same competitive restrictions in terms of rigid codes of behaviour and government intervention. To some extent this situation is alleviated by the new Regulations, which more clearly distinguish between underground and open cut mines and provide much reduced regulation in respect of open cut mines.

Consideration may however be given to reviewing the CMRA in respect of the requirements for management and daily supervision, the qualifications of inspectors and check inspectors (which provide for the prerequisite of underground experience) and the necessity for strict control over rules and schemes for open cut mines.

#### *Support Industries*

The main competitive restriction on support industries such as designers, manufacturers and suppliers of machinery and equipment is the cost of complying with standards and conditions prior to approval of items for use in mines. There may be the costs of developing a product which does not obtain the necessary approvals. Standards may limit innovation and the range of machinery and equipment available to the market. These factors may affect competition within support industries and restrict the market in which mining operators are able to obtain goods.

In this area it may be argued that the benefits to mine safety outweigh competitive restrictions. The requirement for items, systems and equipment to be approved and to be subject to standards and conditions is intended to ensure that mining operations are safe, up-to-date, efficient and cost-effective.

An alternative approach may be a general provision in the legislation for designers, manufacturers and suppliers to ensure that their goods are safe, as in the Queensland model. It may also be possible to reduce the level of prescription or to allow for alternative methods of compliance with prescriptive requirements.

### **5.4 Legal**

The CMRA establishes a Court of Coal Mines Regulation (the Court), consisting of a judge of the District Court, which deals with administrative appeals and criminal offences and conducts formal investigations into serious accidents, dangerous occurrences and practices. Following the 30 July 1999 amendments to the CMRA, the investigatory functions of the Court will be shared by a new Board of Inquiry appointed by the Minister.

The main competitive impacts identified in relation to the legal provisions of the CMRA are the time and costs involved in proceedings in the District Court.

In reviewing the CMRA consideration may be given to transferring the administrative functions of the Court to the Administrative Decisions Tribunal (ADT), which was set up in 1997 to make and review administrative decisions under enactments. The ADT has lay members who have special knowledge and skills in the type of matters being heard. There is also provision for the ADT to be assisted by expert assessors.

The criminal functions of the Court may be exercised by a Local Court. It may also be possible to proceed in most matters under the OH&S Act, which provides for the hearing of actions in a Local Court or in the Industrial Court.

In the enforcement of health and safety standards in mines it is the policy of the Department of Mineral Resources that the obligation to provide a safe workplace is with the mine owner. Accordingly prosecutions are considered, in the first instance, under the OH&S Act.

## **6. ISSUES FOR DISCUSSION**

The Guidelines for NCP Reviews, prepared for the National Competition Council, state that “only where better alternatives do not exist and there are net public benefits for the whole of Australia should legislation be retained”.

In the light of this guideline, the Review Committee invites comment on the competitive restrictions identified in the analysis of the CMRA and Regulations, and on the suggested alternatives.

In particular:

- is there a need for *industry specific legislation*, or should there be total reliance on the provisions of the OH&S Act, with (or without) industry-specific supporting codes and standards?
- should there continue to be industry specific legislation, with greater reliance on the provisions of the *OH&S Act*?
- should there be specific legislation for the coal and non-coal mining industries, and should there be separate legislation for the underground and open cut sectors of the coal industry?
- should the CMRA provide for “*performance standards*” - specify goals to be achieved but allow employers to decide how to meet those goals?
- should the CMRA adopt a similar approach to the Queensland legislation, which imposes a *general duty* on a mine operator to ensure that a health and safety management system is developed, implemented and maintained, and defines the basic requirements of such a system?

- should consideration be given to the adoption of a set of *safety codes and standards*, applicable to all underground and open cut mines (as an alternative to the present system of rules and schemes)?
- have the current *objectives* of the legislation been adequately described? If not, what are they? What are appropriate objectives for any future legislation?
- should the legislation more clearly and effectively provide for the *operational differences* between underground and open cut mines, and coal preparation plants? Did the recently amended Regulations go far enough to balance competitive restrictions between underground and open cut mines, and coal preparation plants?
- is there a need for a system of structured *independent audits* of the workplace carried out at regular intervals, to be enforced by the regulator?
- is there scope for the *development of other accredited bodies or agencies*, such as occupational health and safety auditors, to carry out the functions of inspectors or mine safety officers?
- is there some duplication between the functions of check inspectors and those of an *occupational health and safety committee* set up under the Occupational Health and Safety (Committees in Workplaces) Regulation 1999?
- should training of workers be *competency rather than task based*, developed and controlled by a specific industry training board? Should the provision of training be made contestable by establishing accreditation systems for providers of training?
- should consideration be given to the formation of one or more *occupational associations* to qualify and set standards for mine managers and officials?
- is there a need to retain the Court of Coal Mines Regulation or can its functions be transferred to the Administrative Decisions Tribunal, the Industrial Court or the Local Court?

## **REFERENCES**

Department of Mineral Resources and the Joint Coal Board *2000 New South Wales Coal Industry Profile* January 2000

The Industry Commission *Draft Report into the Australian Black Coal Industry* Volumes 1&2, April 1998

Regulatory Review Unit, The Cabinet Office, New South Wales *From Red Tape to Results. Government Regulation: A Guide to Best Practice* February 1995

*NSW Government Policy Statement on Legislation Review* June 1996

*Implementing Competition Policy and Microeconomic Reform in NSW; an Overview by the NSW Government* June 1996

NSW Government *Consulting on Reform. A Consultation Framework for Review of Anti-Competitive Legislation* August 1997

Centre for International Economics, Canberra & Sydney *Guidelines for NCP legislation reviews* February 1999

Department of Industrial Relations, Canberra *Status of ILO Conventions in Australia - 1994* December 1994

## APPENDIX A

### New South Wales

#### APPLICATION OF NATIONAL COMPETITION POLICY

##### *Review of the Mines Inspection Act 1901 and Coal Mines Regulation Act 1982*

#### TERMS OF REFERENCE

##### **1. Scope of Review**

###### **Relevant Legislation**

The Mines Inspection Act 1901 and the Coal Mines Regulation Act 1982 together with Subordinate Legislation (the Legislation).

###### **Review Approach**

The review Committee will conduct the review in accordance with the New South Wales Government's definition of the term "legislation that restricts competition" in order firstly to determine whether the requirements of the Legislation restrict competition. Accordingly, the review will determine whether the relevant provisions::

- a) establish market entry barriers or sanctions;
- b) require conduct which has the potential to restrict competitive behaviour in the relevant market;
- c) have costs which are not known, are unnecessarily high or may not be outweighed by public benefits.

These aspects will be considered firstly at a whole of statute, macro level and then in Part by Part of the Legislation. Competitive impacts will be considered at personal, company/operation, industry sector, support industry, whole industry, State and National levels.

If the Committee finds that the relevant provisions of the Legislation restrict competition, it will review those provisions in accordance with the terms of reference for legislation reviews set out in the National Competition Principles Agreement. The prime guiding principle of the review will be that legislation should not restrict competition unless it can be demonstrated that:

- a) the benefits of the restriction to the community as a whole outweigh the costs and
- b) the objectives of the legislation can only be achieved by restricting competition.



Without limiting the scope of the review, the Committee will:

- a) clarify the objectives of the legislation and their continuing appropriateness;
- b) identify the nature of the restrictive effects on competition;
- c) analyse the likely effect of any identified restriction on competition on the economy generally;
- d) assess and balance the costs and benefits of the restrictions identified and
- e) consider alternative means for achieving the same result, including non-legislative approaches.

In the course of the review the Committee should:

- a) identify any issues of market failure which need to be, or are being addressed by the legislation and
- b) consider whether the effects of the legislation contravene the competitive conduct rules in Part IV of the *Trade Practices Act 1974* (Cth) and the Competition Code applicable in New South Wales.

Provisions of the Legislation found to restrict competition will be subject to consultation with relevant industry and public stakeholders and other interested parties.

The review, including consultation, will provide input data to necessary regulatory reform in the light of National Competition Policy.

## **2. Review Methodology**

### **Review Committee**

The Review Committee will comprise the following officers of the Department of Mineral Resources:

Mr Frank Krstic, Corporate Counsel (Review Coordinator)  
Mr Rod Morrison, Assistant Director Performance Improvement (Process Oversight)  
Mr Keith Chilman, Inspector of Mines (Mines Inspection Act 1901)  
Mr Chris Ellicott, Manager Regulatory Development (Coal Mines Regulation Act 1982)

### **Initial Analysis**

Initial analysis of the Legislation will be in the terms of the Scope of Review outlined above. A substantive part of that analysis will be recorded on a pre-prepared pro forma a sample of which is Attachment A.

## **Consultative Framework**

Products of the initial analysis will be taken forward to a consultative process. A key component of that process will be to draw on revised industry consultative arrangements which have as a peak body a tri-partite Mine Safety Council (MSC). It is anticipated that the MSC will set direction for its supporting advisory groups to consider matters relevant to the respective industry sectors. It will be at industry sector level that canvassing of the constituencies represented on the Groups will occur. The MSC and supporting groups have been carefully structured to involve appropriate industry stakeholders.

An overview of the proposed industry consultative framework appears as Attachment B. The relationship between the peak council and supporting groups is illustrated together with principals on which the model is based. The particular role of the MSC and its relationship with the Minister is also described.

The mining industry is a specific industry sector with well defined networks and means of representation and communication. Bearing this in mind the proposed approach is seen as likely to deliver adequate levels of consultation while involving appropriate stakeholders.

## **Review Report**

A report for the attention of the Premier will be prepared from the Review. That report will cover both the analysis and consultation phases of the review together with outcomes of the consultative process.

## **Attachment A**

Legislation Analysis Pro Forma

### Proposed Treatment of Provisions Without Competitive Impact

<b>Part:</b>	<b>Division:</b>	<b>Section(s):</b>
<b>Nature of Provisions:</b>		
These provisions are administrative and are not considered to impact on competition in the industry.		

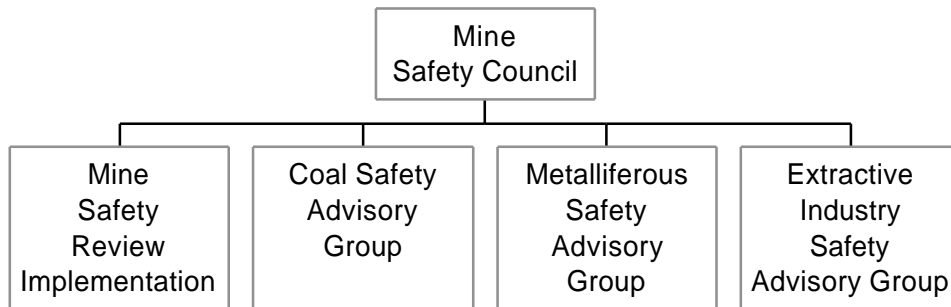
### Proposed Treatment of Provisions With Competitive Impact

<b>Part:</b>	<b>Division:</b>	<b>Section(s):</b>
<b>Nature of Provisions:</b>		
<b>Objective / Market Failure Addressed:</b>		
<b>Competitive Effect Through / On:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>		
<b>Companies / Operations</b>		
<b>Industry Sector</b>		
<b>Support Industries</b>		
<b>Coal Mining Industry</b>		
<b>State</b>		
<b>Country</b>		
<b>Effect of Competitive Restriction:</b>		
<b>Costs:</b>		<b>Benefits:</b>
<b>Alternative Means to Achieve Result:</b>		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b>		

## **Attachment B**

### **Relevant Industry Consultative Arrangements**

# CONSULTATIVE PROCESS - PROPOSED ARRANGEMENTS



## PRINCIPLES FOR THE ARRANGEMENT

- be tripartite;
- be simple and responsive;
- involve people in the industry from hands on experience to CEO's and Union Leaders;
- be capable of providing strategic direction;
- be able to deliver results in acceptable time limits;
- provide a consolidation of the existing Mine Safety Review Implementation and ongoing consultative arrangements;
- provide a capacity for sectors of the industry to deal with their specific industry issues; and
- recognise the ultimate authority of the Minister.

# **MINE SAFETY COUNCIL**

**ROLE** - Report to Minister on Strategic Direction, Legislation, Regulation, Standards, Broad Industry Matters of Policy and Performance Measures. Move to Cross Industry and National Standards.

**Statute: Coal Mines Regulation Act 1982**

<b>Part: 1 - PRELIMINARY</b>	<b>Division:</b>	<b>Section(s): 1-6</b>
<p><b>Nature of Provisions:</b> Short title, commencement and jurisdictional provisions. Definitions; power to declare places to be, or not to be, parts of mines; power to deem mines to be single or multiple mines; powers to limit the duration or vary or revoke various instruments; provision that the CMRA binds the Crown.</p>		
<p>These provisions are administrative and are not considered to impact on competition in the industry.</p>		

<b>Part: 2 - ADMINISTRATION</b>	<b>Division:</b> 1 - Departmental inspectors and mine safety officers	<b>Section(s): 7-12</b>
<p><b>Nature of Provisions:</b> The appointment (by the Governor) of inspectors for the purposes of the CMRA; inspectors' qualifications to be prescribed (by regulation); disclosure of financial interests by inspectors; functions of inspectors; requirements during absence of Chief and Deputy Chief Inspector; requirement for annual reports by inspectors; functions of mine safety officers.</p>		
<p><b>Objective / Market Failure Addressed:</b> The inspectorate exists to provide effective oversight of industry, and is similar to other industrial inspectorates. The market failure is that persons without proper competence and experience or with conflicting interests may be appointed to oversee the industry, resulting in inadequate inspection techniques and reporting, and the potential for corrupt practices.</p>		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Persons are required to hold certificates of competency and have prescribed years of underground experience in an Australian coal mine.	Inspectors are independent statutory officers - no restriction identified. The NSW government pays a high premium by way of salaries to attract and retain suitably qualified persons.
<b>Companies / Operations</b>	None identified.	None identified.
<b>Industry Sector</b>	Persons are required to have underground mining experience to be appointed as inspectors.	There may be unnecessary costs in appointing the same inspectors for both open-cut and



**Statute: Coal Mines Regulation Act 1982**

	There is a barrier to entry to the inspectorate from the open-cut sector.	underground mines.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	Limitations on persons eligible to be appointed to inspectorate - underground experience essential.	Costs are higher than in other industries with inspectorates, as inspectors are recruited from management.
<b>State</b>	In Queensland a professional engineering qualification is required, together with “appropriate competencies and adequate experience at senior level.” This may be less restrictive than NSW.	None identified.
<b>Country</b>	UK, USA and South Africa have similar arrangements. In USA, 5 years practical mining experience is required.	Similar arrangements - no identified restriction.
<b>Effect of Competitive Restriction:</b> There are presently barriers to entry into the market. The replacement regulations, providing for changes to inspectors qualifications and the creation of mine safety officers, will increase competitiveness.		
<b>Costs:</b> High salaries and benefits currently paid to inspectors.		<b>Benefits:</b> Independence, experience of inspectors and reliability of the inspection system.
<b>Alternative Options:</b> There may be scope for development of other accredited bodies or agencies (such as Occupational Health and Safety auditors) to take over the functions of inspectors.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

**Statute: Coal Mines Regulation Act 1982**

<b>Part: 2 - ADMINISTRATION</b>	<b>Division: 2 - Coal Mining Qualifications Board</b>	<b>Section(s): 13-18, Schedule 2.</b>
<p><b>Nature of Provisions:</b> Establishment of the Coal Mines Qualifications Board (CMQB) to oversee the granting of certificates of competency to managers, engineers, surveyors and examiners by determining necessary qualifications and eligibility of applicants for certificates, to appoint examiners and conduct examinations and carry out research or investigations in relation to certificates of competency as may be required by the Minister. In general a period of industry experience and success at oral and written examinations are required as conditions of the granting of certificates.</p>		
<p><b>Objective / Market Failure Addressed:</b> An appropriate certificate of competency is required prior to appointment to certain statutory positions (usually management positions) in coal mines. The CQMB is an oversight body which maintains the system of certificates of competency. The potential failure is that persons without sufficient competency (experience and knowledge) may otherwise be appointed to those positions by reason of cost saving or expediency.</p>		
<b>Competitive Effect On \ Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Composition of the CMQB is strictly specified and inflexible. Board members are limited to mine managers, workers and academics.	None identified.
<b>Companies / Operations</b>	Companies have limited representation through mine manager.	None identified.
<b>Industry Sector</b>	None identified.	Both underground and open-cut mines are dealt with by one board.
<b>Support Industries</b>	There is no representation on the CMQB from support industries.	None identified.
<b>Coal Mining Industry</b>	None identified.	The operations of the CMQB are strictly defined and inflexible under the CMRA, so it may not be able to respond to changing circumstances and emerging issues. (This was reflected in the Moura report's recommendations on the granting

**Statute: Coal Mines Regulation Act 1982**

		of statutory certificates, including introduction of fixed terms and regular re-testing of holders). The cost of administering the CMQB is borne by general revenue. 1997/98 budget was \$60,000.00. The main cost is examiners. This cost is effectively passed onto the industry through the collection of examination fees (1996/97 income \$109,000.00.)
<b>State</b>	Queensland has a Board of Examiners which operates in a similar way to the CMQB. Mutual recognition arrangements allow for recognition and portability of qualifications between the states.	Queensland has similar costs arrangements.
<b>Country</b>	The use of certificated persons in key positions in coal mines is common in the industry throughout the world.	None identified, other than costs.
<p><b>Effect of Competitive Restriction:</b> Inflexibility, as the composition and terms of reference of the CMQB are fixed, with the result that the CMQB may not be able to respond to changing circumstances and emerging issues. The current provisions do not allow for the CMQB to make rules for the re-evaluation of certificate holders. There is also no flexibility in the term of a certificate.</p>		
<p><b>Costs:</b> Administration costs are passed on to the industry.</p>		<p><b>Benefits:</b> The CMQB is a cross-section of industry and educational representation, performing functions with knowledge and experience in the industry.</p>
<p><b>Alternative Options:</b> The formation of an occupational association to qualify and set standards for mine managers and officials under the Professional Standards Act, the development of the Mining Industry Training Advisory Board, or accreditation through other registration or licensing schemes. Details of the options available under the Professional Standards Act are at Appendix E.</p>		
<p><b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.</p>		

**Statute: Coal Mines Regulation Act 1982**

<b>Part: 2 - ADMINISTRATION</b>	<b>Division: 3 - Certificates of Competency</b>	<b>Section(s): 19-24</b>
<p><b>Nature of Provisions:</b> Certificates of competency may be granted by the Minister; requirements for examination of candidates for certificates; appointment of persons with superior certificates to positions requiring lesser certificates; the keeping of a register of certificates granted; the CMQB to make rules concerning qualifications and experience required for certificates; regulations to be made concerning the issue and replacement of certificates and the keeping of the register. These provisions deal with the operations of the CMQB, appointment of examiners and the making of rules.</p>		
<p><b>Objective / Market Failure Addressed:</b> The need to provide for properly qualified people in key positions in coal mines and to ensure that people without sufficient competency are not appointed to key positions by reason of cost saving or expediency.</p>		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Certificates of competency create a market barrier in that persons are required to hold certificates of competency to be eligible for appointment by a mine owner or manager to certain statutory positions.	Fee paid for certificate (if paid by worker).
<b>Companies / Operations</b>	None identified.	Where applicable, fee paid for certificate by company, and cost of lost work time while worker attends course, prepares for exam etc.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Higher costs to industry generally through need to obtain certificate.
<b>State</b>	Queensland has a Board of Examiners which operates in a similar way to the CMQB in	Other than costs, none identified

**Statute: Coal Mines Regulation Act 1982**

	assessing applicants and granting certificates of competency.	
<b>Country</b>	The use of certificated persons in key positions in coal mines is common in the industry throughout the world.	Other than costs, none identified
<b>Effect of Competitive Restriction:</b> Market barrier is established to entry to key positions, costs are imposed on personnel and companies.		
<b>Costs:</b> Fee paid for certificate, lost work time.		<b>Benefits:</b> Properly qualified people in key positions in coal mines.
<b>Alternative Options:</b> The formation of an occupational association to qualify and set standards for mine managers and officials under the Professional Standards Act, the development of the Mining Industry Training Advisory Board, or accreditation through other registration or licensing schemes.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

<b>Part:</b> 2 - ADMINISTRATION	<b>Division:</b> 4 - Suspension or cancellation of Certificates of Competency	<b>Section(s):</b> 25-31
<b>Nature of Provisions:</b> Certificate holders may, in certain circumstances, be required to show cause why certificates should not be cancelled or suspended; procedures to be followed in show cause actions.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part:</b> 3 - MANAGEMENT OF MINES	<b>Division:</b> 1 - Management Generally	<b>Section(s):</b> 32-46
<b>Nature of Provisions:</b> Definition of duties of mine owners; creation of a management hierarchy of mining officials; appointment and duties of		

**Statute: Coal Mines Regulation Act 1982**

officials; appointment of surveyors and engineers; notification of appointment and changes in circumstances.

**Objective / Market Failure Addressed:** The potential failure to provide for supervision of workers and operations and for monitoring of the mining environment, by competent and experienced persons in key positions.

<b>Competitive Effect On \ Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	Workplace flexibility and performance may be reduced by a rigid management hierarchy, and fixed systems of issuing instructions and delegations. Experienced and properly qualified personnel may at times be scarce, attracting higher salaries.
<b>Companies / Operations</b>	Persons are required to hold certificates of competency to be eligible for appointment by a mine owner or manager to certain statutory positions.	Lack of control by companies over the structure of workplace management, and loss of capacity to introduce alternative management arrangements. The necessity to employ persons with relevant qualifications may lead to companies having to pay higher salaries.
<b>Industry Sector</b>	None identified.	The open-cut sector management structure is prescribed in the same manner as the underground sector, leading to lack of flexibility.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	There are more rigid requirements for management than in other industries. Rigid management requirements lead to higher costs.
<b>State</b>	Queensland provides for appointment of a site senior executive for each mine who is	Similar arrangements.

**Statute: Coal Mines Regulation Act 1982**

	responsible for the management structure. In underground mines a manager may be appointed by the site senior executive.	
<b>Country</b>	UK and South Africa have similar legislative provisions. USA has no federal legislative provisions relating to the appointment of mine officials, surveyors and engineers.	Similar arrangements.
<b>Effect of Competitive Restriction:</b> An inflexible management structure which fails to differentiate between open-cut and underground sectors may lead to lack of innovation, and reduced performance and productivity. There is also the market entry barrier that persons are required to hold certificates of competency to be eligible for appointment by a mine owner or manager to certain statutory positions.		
<b>Costs:</b> High premiums may have to be paid to employ properly qualified managers and may increase when competent personnel are scarce. There may be unnecessary costs borne by the open-cut sector in complying with the provisions.		<b>Benefits:</b> Competent control over workplace operations and personnel; efficient monitoring to ensure that mining environment is safe at all times.
<b>Alternative Options:</b> Provision in the CMRA for a general duty on owners/employers to ensure that key positions are held by competent persons.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The management structure may be seen as an arrangement which may lessen competition under section 45(2) of (Schedule) Part IV but it is questionable whether it <i>substantially</i> lessens competition.		

<b>Part: 3 - MANAGEMENT OF MINES</b>	<b>Division:</b> 2 - Immediate supervision of working of mines.	<b>Section(s):</b> 47-51
<b>Nature of Provisions:</b> Requirement for regular attendance by mine manager and daily supervision by a person with at least undermanager's qualifications; requirement for undermanager to be on duty during each shift.		
<b>Objective / Market Failure Addressed:</b> The potential for inadequate daily supervision; the need to provide for frequent or constant supervision or for minimum competence of supervisors.		
<b>Competitive Effect On \ Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>

**Statute: Coal Mines Regulation Act 1982**

<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	The provisions impose a supervisory structure on companies and operations. There is the cost of replacement personnel when manager is absent, and the costs of complying with rigid codes of behaviour.
<b>Industry Sector</b>	None identified.	Both underground and open-cut sectors are largely subject to the same restrictions.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Performance may be affected by restrictions on the exercise of supervision.
<b>State</b>	None identified.	Queensland provides for the appointment and regular attendance of a site senior executive.
<b>Country</b>	None identified.	UK and South Africa have similar arrangements. USA has no federal legislative provisions relating to supervision.
<b>Alternative Options:</b> The legislation may be redrafted to provide for the general objectives and outcomes to be achieved through supervision, rather than prescribing rigid codes of behaviour for mine officials.		
<b>Effect of Competitive Restriction:</b> The Act requires physical attendance at a mine, but with improved communications attendance is not necessary for the issuing of instructions and the making of decisions. The company's control over management is restricted. Inflexibility in management may result in reduced performance.		
<b>Costs:</b> Replacement personnel when manager absent, and there may be costs of complying with rigid codes of behaviour.		<b>Benefits:</b> Ongoing competent management and constant monitoring of workplace safety.



**Statute: Coal Mines Regulation Act 1982**

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The management structure may be seen as an arrangement which may lessen competition under section 45(2) of (Schedule) Part IV but it is questionable whether it *substantially* lessens competition.

<b>Part: 3 - MANAGEMENT OF MINES</b>	<b>Division:</b> 3 - Owner's instructions to mine officials and employees	<b>Section(s):</b> 52-55
<p><b>Nature of Provisions:</b> The issuing of instructions by mine owners to mine officials and the workforce. A mine manager may require a mine owner's instructions to be confirmed in writing; written instructions are to be preserved for 6 years; any instructions given to employees at the mine by an owner must be given through the manager.</p>		
<p><b>Objective / Market Failure Addressed:</b> There is the potential for a mine owner, through competing interests, to issue instructions which may prejudice health and safety in the workplace.</p>		
<b>Competitive Effect On \ Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	A person must not give instructions to a mine official or employee unless the manager is aware of those instructions.
<b>Companies / Operations</b>	None identified.	The requirement for the knowledge or consent of the manager to all instructions given by the owner restricts the direct control by the owner over the operations of the mine. The provisions may impose costs, but such costs would be minimal.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.

**Statute: Coal Mines Regulation Act 1982**

<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified.	In Queensland technical direction is given through the manager.
<b>Country</b>	None identified.	Under federal USA legislation the operator of the mine has the responsibility for issuing instructions; state law requires the appointment of a mine foreman.
<p><b>Effect of Competitive Restriction:</b> Restrictions on workplace flexibility, due to all instructions requiring the knowledge or consent of the mine manager. Restriction on the direct control by the owner over the operations of the mine.</p>		
<p><b>Costs:</b> The provisions may impose costs, but such costs would be minimal.</p>		<p><b>Benefits:</b> Ensures that a mine manager is aware of all instructions given in the course of operations and allows the manager to require confirmation in writing where he believes that instructions are not in the best interests of workers.</p>
<p><b>Alternative Options:</b> These provisions reflect a shift in responsibility from manager to owner (employer.) The provisions appear, at first instance, to have an impact on competition (restrictions on control and management.) However the legal effects are complex when considered in conjunction with the responsibilities of employers set down in the Occupational Health And Safety Act 1983 (OH&amp;S Act.) One means to achieve a similar result is to repeal the division and rely on the OH&amp;S Act. While this may not cover instructions in relation to carrying out functions which do not affect health and safety, such as operations relating to resource recovery or mine subsidence, the common law provides for the vicarious liability of employers in these circumstances. There will still be a need to provide in the CMRA for the preservation of any written instructions given in the course of work.</p>		
<p><b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.</p>		

<b>Part:</b> 3 - MANAGEMENT OF MINES	<b>Division:</b> 4 - Delegation of functions by a	<b>Section(s):</b> 56-58
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**Statute: Coal Mines Regulation Act 1982**

manager of a mine.

**Nature of Provisions:** The delegation of functions by the manager of a mine, in writing, to a mine official. The Act and regulations in many instances place responsibility on managers of mines to ensure that provisions of the legislation are complied with. These provisions allow managers to shift responsibility without changing the fundamental nature of the underlying duties.

These provisions are administrative and are not considered to impact on competition in the industry. The provisions implement the management hierarchy created in Part 3 Division 1.

**Part: 4 - MINE INSPECTION AND SAFETY PROVISIONS**

**Division: 1 -**Inspectors' and mine safety officers' powers of entry, inspection, etc.

**Section(s): 59-62**

**Nature of Provisions:** Inspectors' and mine safety officers' fundamental powers of entry, inspection, inquiry, search and seizure to support accident investigation and inspection functions. This is essentially part of the inspectorate's "toolkit" which has equivalents in other industrial inspectorates.

These provisions are administrative and are not considered to impact on competition in the industry.

**Part: 4 - MINE INSPECTION AND SAFETY PROVISIONS**

**Division: 2 -**Inspectors' powers where mine dangerous

**Section(s): 63-68**

**Nature of Provisions:** Inspectors may issue the equivalent of "prohibition and improvement notices." This is essentially part of the inspectorate's "toolkit" which has equivalents in other industrial inspectorates.

These provisions are administrative and are not considered to impact on competition in the industry.

**Part: 4 - MINE INSPECTION AND SAFETY PROVISIONS**

**Division: 3 -**Departmental officers' powers of entry

**Section(s): 69-70**

**Statute: Coal Mines Regulation Act 1982**

**Nature of Provisions:** Officers other than inspectors are authorised to enter mines for specific purposes.

These provisions are administrative and are not considered to impact on competition in the industry.

<b>Part:</b> 4 - MINE INSPECTION AND SAFETY PROVISIONS	<b>Division:</b> 4 - Inspections on behalf of workmen	<b>Section(s):</b> 71-84
<p><b>Nature of Provisions:</b> The election of workforce representatives in the form of check inspectors; local (mine) and district (area) check inspectors may be elected; powers of check inspectors including, in the case of district check inspectors, the power to direct the suspension of operations (until a review by a government inspector.)</p>		
<p><b>Objective / Market Failure Addressed:</b> Workers and their representatives may be unable to obtain access to, or may be prevented from inspecting work sites, information and records in situations where there is concern as to the safety of the workplace.</p>		
<b>Competitive Effect On \ Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Check inspectors are required to have coal mining experience, must be elected and one person must be an employee of the mine. A district check inspector must be a practical miner, a deputy, elected by the union. There is no input by workers into the mode of representation.	As the district check inspector is elected by the CFMEU and there is union participation in the election of check inspectors, the issue may arise of acceptance and effective representation in the case of non-union work sites.
<b>Companies / Operations</b>	None identified.	The issue of effective representation may have an impact on operations / productivity. There are costs involved in check inspections being carried out in work time; and costs of the manager/official accompanying the check inspector.

**Statute: Coal Mines Regulation Act 1982**

<b>Industry Sector</b>	One elected <u>underground</u> check inspector must hold a deputy's certificate. As the system of check inspectors has developed from the underground sector, there is no such requirement for open cut mines.	There are higher costs (as above) for check inspectors for underground mines as one of the check inspectors must be a deputy.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	Queensland has similar arrangements, with provision for 2 site safety and health representatives elected by workers, and for 3 full-time union elected industry representatives.	Similar arrangements, however there is provision in the Queensland legislation for safety and health representatives not to unnecessarily impede production.
<b>Country</b>	UK and USA have schemes for workplace representatives to carry out inspections.	Similar arrangements.
<b>Effect of Competitive Restriction:</b> The issue of representation of non-union work sites.		
<b>Costs:</b> The lost work time of check inspectors and accompanying management staff.		<b>Benefits:</b> Openness in respect of the workplace, avoidance of possible conflicts, and the opportunity for a third party to oversee operations and investigations in a potentially hazardous workplace.
<b>Alternative Options:</b> A current alternative is for some of the functions of check inspectors to be carried out by an occupational health and safety committee set up under the Occupational Health and Safety (Committees in Workplaces) Regulation 1984. There may also be potential for independent auditors to carry out structured audits of the workplace at regular intervals, reporting on workplace operations and safety, however here there would be no capacity for immediate, on-the-spot inspections should a problem arise.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

**Statute: Coal Mines Regulation Act 1982**

<b>Part: 4 - MINE INSPECTION AND SAFETY PROVISIONS</b>	<b>Division: 5 - Notification of accidents and dangerous occurrences</b>	<b>Section(s): 85-92</b>
<b>Nature of Provisions:</b> Notification to the inspectorate and the Director-General of fatalities, more serious injuries and dangerous occurrences (incidents where no injury occurs but which were nonetheless dangerous); requirement for site to be left undisturbed and for inspector (or mine safety officer) to visit mine and report as soon as practicable.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part: 4 - MINE INSPECTION AND SAFETY PROVISIONS</b>	<b>Division: 6 - Investigation of accidents and dangerous occurrences</b>	<b>Section(s): 93-100</b>
<b>Nature of Provisions:</b> The Director-General may make determinations in respect to investigations, having regard to, among other things, health and safety issues. The appointment of investigators to investigate accidents and occurrences and report on safety, health, conduct or discipline. The Minister may require a special report in relation to a serious accident or any other matter or practice at a mine, and may constitute a person as a Board of Inquiry to conduct a special inquiry into an accident or a practice affecting health and safety, or may direct a court to hold a formal investigation; the powers of the Board of Inquiry and the court.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part: 4 - MINE INSPECTION AND SAFETY PROVISIONS</b>	<b>Division: 7 - Rules and schemes</b>	<b>Section(s): 101-113</b>
<b>Nature of Provisions:</b> A mine manager is required to prepare mandatory rules or schemes covering certain aspects of the safe operation of mines. These provisions set down a general rule model for additional rules which may be required by regulations (s104.) Mandatory rules and schemes are: transport rules (concerning the operation of transport at a mine, s101); support rules (concerning roof support in underground mines, s102); and schemes for the testing of electrical and mechanical apparatus (s103 schemes.) Rules and schemes are subject to confirmation by a district inspector		

**Statute: Coal Mines Regulation Act 1982**

appointed for a mine, who may serve notice of any required changes.

**Objective / Market Failure Addressed:** The potential failure to provide rules and specifications which address the operational and safety requirements in an individual mine, and to provide clear rules in relation to recognised hazards.

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	A mine cannot operate unless a District Inspector has confirmed a set of rules and schemes, prepared by the manager only, applicable to that mine.	There is a large degree of government control, in the confirmation process, over rules and schemes (and hence operations), leading to reduced flexibility. There is no provision for the review of rules and schemes, so rules may become out-of-date, affecting performance. Rules and schemes must be made for each mine and cannot be applied in all mines owned by a company. There are also the costs of developing and implementing rules and schemes and the costs of an appeal to the Chief Inspector or court if the rules are not confirmed.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Government control over the approval (confirmation) process imposes constraints on the industry.
<b>State</b>	In Queensland the development of plans for	There is provision in the Queensland legislation

**Statute: Coal Mines Regulation Act 1982**

	safety and health and principal hazards is the responsibility of the operator. There is no approval process.	for plans and operating procedures to be reviewed in consultation with affected workers.
<b>Country</b>	USA has mandatory safety standards for roof support, electrical equipment, ventilation, fire protection etc.	None identified.
<b>Effect of Competitive Restriction:</b> A reduction in control over work practices by company and workers, leading to inflexibility and restrictions on performance. Rules and schemes cannot take effect until they are confirmed by the District Inspector and this may hamper operations.		
<b>Costs:</b> The costs of developing and implementing rules and schemes, and of appeals.		<b>Benefits:</b> The control of recognised mining hazards and the protection of workers' safety, taking into account the requirements of an individual mine.
<b>Alternative Options:</b> The adoption of alternate hazard management models, such as safety standards, applicable to all underground or to all open cut mines. (cf. Queensland legislation - recognised standards may be set in safety and health matters.)		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The provisions may be seen as an "arrangement" under section 45(2) of (Schedule) Part IV which restricts competition but the provisions do not <i>substantially</i> lessen competition.		

<b>Part:</b> 4 - MINE INSPECTION AND SAFETY PROVISIONS	<b>Division:</b> 8 - Training Rules	<b>Section(s):</b> 114-120
<b>Nature of Provisions:</b> A manager of a mine is required to ensure that employees undertake training consistent with any relevant order of the Joint Coal Board or direction of the Minister; the Minister may direct that training rules be made.		
<b>Objective / Market Failure Addressed:</b> The need to provide ongoing training for coal mining employees; the lack of consistent industry wide training rules; the potential that inadequate training may result in reduced competence and out-of-date work practices, jeopardising worker safety and productivity.		



**Statute: Coal Mines Regulation Act 1982**

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	Training is oriented towards tasks rather than competencies, resulting in inflexibility in work practices.
<b>Companies / Operations</b>	Training is required in order that work can be done in a mine. Companies are required to develop and implement training rules which must be approved by the Joint Coal Board, and to ensure that employees undertake training.	A manager is obliged to implement training rules approved by the Joint Coal Board in accordance with a model supplied by the Board, restricting management flexibility and the control of companies over their operations. There is also reduced flexibility in the enforced training and re-training of workers for infrequently performed tasks. There are costs of training and re-training of workers for infrequently performed tasks.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	The training of employees within the coal mining industry is largely dictated by the Joint Coal Board.
<b>State</b>	Queensland has no similar provisions, but training may be taken to be part of the general safety and health obligations under the legislation.	None identified.
<b>Country</b>	In USA owners are required to have a health and safety training programme. The legislation	None identified.

**Statute: Coal Mines Regulation Act 1982**

prescribes minimum levels of training.

**Effect of Competitive Restriction:** Inflexibility in operations and management practices in implementing ongoing task-based training and re-training in accordance with a Joint Coal Board model.

**Costs:** The costs of training and re-training employees for infrequently performed tasks.

**Benefits:** A sufficiently competent workplace, trained to standards acceptable to the industry. The portability of skills between mines and interstate.

**Alternative Options:** Key competency based training developed and controlled by the Mining Industry Training Advisory Board, which is currently being established, or by an occupational association set up under the Professional Standards Act (Appendix E.)

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

**Part:** 4 - MINE INSPECTION AND SAFETY PROVISIONS

**Division:** 8 - Closing of shafts and outlets in abandoned mines

**Section(s):** 121-124

**Nature of Provisions:** The owner of a mine is to cause shafts and outlets at unused mines to be sealed or enclosed within 30 days of the mine ceasing to be used; any shaft or outlet not so sealed taken to be a public nuisance; the Minister may serve a notice on the owner of land on which a mine is situated requiring that shaft or outlet be sealed or enclosed.

**Objective / Market Failure Addressed:** The potential failure, through oversight or commercial considerations, to take proper precautions in respect of unused or abandoned workings. It is essential that there be government regulation in this area as the effects of any actions or omissions continue beyond the operational “market” life of the mine.

**Competitive Effect On / Through:**

**Market Entry Barriers or Sanctions**

**Restriction on Competitive Behaviour**

**Personnel**

None identified.

None identified.

**Companies / Operations**

None identified.

The closing of shafts and outlets must be carried

**Statute: Coal Mines Regulation Act 1982**

		out in an approved manner, reducing flexibility. The cost of obtaining approval.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified. In Queensland there is a prescribed duty on an operator of a mine to ensure that abandoned mines are safe and secure.	None identified.
<b>Country</b>	None identified. UK and USA have similar provisions.	Similar restrictions.
<b>Effect of Competitive Restriction:</b> The requirement for approved closure imposes constraints on operational flexibility.		
<b>Costs:</b> Any costs associated with approvals.		<b>Benefits:</b> Public safety, by ensuring that potentially hazardous shafts and outlets are sealed in a proper manner.
<b>Alternative Options:</b> Provision for a general duty on owners (with oversight by an inspector) to close and maintain shafts and outlets, as is contained in the Queensland provisions.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

<b>Part:</b> 4 - MINE INSPECTION AND SAFETY PROVISIONS	<b>Division:</b> 10 - Control of emplacement areas	<b>Section(s):</b> 125-133
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**Statute: Coal Mines Regulation Act 1982**

**Nature of Provisions:** The establishment, construction and use of emplacement areas (places where reject is deposited.) Emplacement area to be soundly constructed, compatible with the environment and secure; the owner is required to make “tipping rules”; the District Inspector may order testing of the emplacement area to ensure safety and security; the Minister must consent to the establishment and to the discontinuance of use of an emplacement area.

**Objective / Market Failure Addressed:** The risk to public safety in the storage and handling of potentially hazardous waste on open ground. The potential for adverse effects on the environment, due to commercial expediency, inefficient work practices or other reasons. There is a potential public and environmental risk from a hazard which may continue beyond the market life of the mine.

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	The Minister’s approval is required to set up or to discontinue the use of an emplacement area.	Operations are subject to rules, orders and directions of the Minister and the District Inspector, particularly in relation to safety testing and the making of tipping rules. There is also the cost of an appeal to the court or the Chief Inspector from orders made.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	Queensland has no provisions for emplacement areas.	None identified.
<b>Country</b>	UK has similar provisions, drawn up following the Aberfan disaster.	Similar restrictions.

**Statute: Coal Mines Regulation Act 1982**

**Effect of Competitive Restriction:** Constraints on operations due to compliance with rules, orders and directions of the Minister and the District Inspector.

**Costs:** The costs of complying with rules, orders and directions. The cost of an appeal against orders made.

**Benefits:** Public and environmental protection and the control of potentially hazardous waste.

**Alternative Options:** Rigorous standards are required, as there is a potential public risk from a hazard which may continue beyond the market life of the mine. Due to the potential impact on the public and the environment some form of oversight is required. There may be a potential for emplacement areas to be covered by a national standard for major hazardous facilities.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

**Part:** 5 - OPERATION OF MINES

**Division:** 1 - Notice of operations, etc.

**Section(s):** 134-137

**Nature of Provisions:** An owner of a mine is required to give written notice within 14 days to the district inspector of the commencement, discontinuance, or resumption of operations, the fact that a mine has not been worked for 2 months, and the abandonment of a mine. The Chief Inspector must be notified of the drilling of a borehole; requirements for the handling, analysis and disposal of cores and samples obtained from boreholes; backfilling and sealing of boreholes.

**Objective / Market Failure Addressed:** Section 134, notice of operations, is primarily administrative. Its purpose is to activate the oversight provisions of the CMRA by the notification to the district inspector of the essential steps in coal mining operations. The remaining provisions address the need for public notification of borehole operations so that a record may be kept of the location of boreholes and routine sealing on completion may be ensured, and, in relation to cores and samples, so that there may be a record of resources.

**Competitive Effect On / Through:**

**Market Entry Barriers or Sanctions**

**Restriction on Competitive Behaviour**

**Personnel**

None identified.

None identified.

**Companies / Operations**

A mine cannot be worked without notice in

The requirement for notifications and approvals

**Statute: Coal Mines Regulation Act 1982**

	writing to the district inspector of significant steps in operations.	may restrict operators' flexibility, and there are the costs of sample storage.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified. In Queensland there are no similar provisions but notification of operations and boreholes may form part of the required hazard management plan.	None identified.
<b>Country</b>	USA provides safety standards for the drilling of boreholes.	None identified.
<b>Effect of Competitive Restriction:</b> Restricted flexibility due to the obligation to notify and obtain approvals for mine operations.		
<b>Costs:</b> Sample storage.		<b>Benefits:</b> The oversight of operations following notification of major events; public and worker safety; environmental protection; control over hazardous operations; the keeping of a public record of resources.
<b>Alternative Options:</b> Provide for a general duty on owners in relation to the safe drilling and sealing of boreholes and the retention of cores and samples for a specified period.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

**Part:** 5 - OPERATION OF MINES

**Division:** 2 - Methods or systems of working mines

**Section(s):** 138

**Statute: Coal Mines Regulation Act 1982**

**Nature of Provisions:** No method of mining other than the bord and pillar system ( the common system of construction of underground mine roadways) is to be used in underground mines, except with the approval of the Minister on the recommendation of the Chief Inspector; dimensions of pillars, roadways, bords etc; variations in dimensions and removal of pillars must be approved.

**Objective / Market Failure Addressed:** The potential failure to provide for oversight of mining operations in key sensitive aspects such as safety in second workings and effective resource recovery. The potential failure to address issues of public safety, protection of private property and the environment in relation to the hazards of subsidence (Cataract River.)

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	Underground mines cannot operate unless a prescribed system is followed and approvals are obtained.	The commercial viability of mines affected by subjecting operating systems to red tape in the form of approvals and directions from the Minister and the Chief Inspector. Inflexibility, as the bord and pillar system while used in first workings may not be appropriate in second and later workings. Delay in operations while obtaining approvals, the costs of lost productivity while obtaining approvals and possibly through not being able to utilise the most efficient mining method.
<b>Industry Sector</b>	The provisions do not apply to open cut mines.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified. Queensland has no provision requiring the bord and pillar system.	None identified.

**Statute: Coal Mines Regulation Act 1982**

<b>Country</b>	None identified. USA has detailed safety standards for roof support but not for systems of underground mining.	None identified.
<b>Effect of Competitive Restriction:</b> Inflexibility and loss of commercial viability due to the need to adhere to prescribed methods of working mines, and to obtain approvals. Delays in operations and loss of productivity while approvals are obtained. These impediments on mining coal are caused largely by the proximity of coal mines to urban development and national parks.		
<b>Costs:</b> Costs of obtaining approvals. There are also costs to companies of lost productivity while obtaining approvals and possibly through not being able to utilise the most efficient mining method.	<b>Benefits:</b> Public and environmental safety (prevention of subsidence); control over resource recovery and the extraction of coal; effective utilisation of the state's coal resources.	
<b>Alternative Options:</b> The use of alternative legislation to achieve results: the Mining Act to provide for controls over subsidence (through mining leases), the Environmental Planning and Assessment Act to regulate the impact of underground mining on the environment.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The provisions may be seen as an “arrangement” under section 45(2) of (Schedule) Part IV which restricts competition but the provisions do not <i>substantially</i> lessen competition.		

<b>Part:</b> 5 - OPERATION OF MINES	<b>Division:</b> 2 - Methods or systems of working mines	<b>Section(s):</b> 139-141
<b>Nature of Provisions:</b> General rules in relation to barriers and protective pillars and orders which may be made by the Minister on the recommendation of the Chief Inspector; seams liable to spontaneous combustion not to be mined without consent of Chief Inspector; establishment of methane drainage system may be directed by Chief Inspector.		
<b>Objective / Market Failure Addressed:</b> The potential failure to provide adequate barriers between mine workings, jeopardising the safety of workers and future mining activities. The potential that unsafe working systems may be adopted in hazardous operations for reasons of commercial expediency.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>



**Statute: Coal Mines Regulation Act 1982**

<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	Mines cannot operate unless prescribed safety measures are followed, and the necessary approvals obtained.	Commercial viability may be affected by the need to obtain approvals and comply with directions from the Minister or the Chief Inspector. There may be costs incurred through delay in operations while approvals are obtained, and the cost of an appeal to a court against the decision of the Chief Inspector.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	The competitiveness of the industry may be affected by the need to obtain approvals and comply with directions from the Minister or the Chief Inspector
<b>State</b>	None identified. Queensland has no specific provisions but safety precautions in this area may form part of a principal hazard management plan.	None identified.
<b>Country</b>	USA safety standards contain provisions relating to barriers and methane gas.	None identified.
<b>Effect of Competitive Restriction:</b> The Act provides a cumbersome system of approvals and directions resulting in delays, reduced efficiency and productivity.		
<b>Costs:</b> The costs of obtaining approvals, and of appeals. There may also be lower productivity and compliance costs.		<b>Benefits:</b> The maintenance of consistent safety standards in hazardous operations.

**Statute: Coal Mines Regulation Act 1982**

**Alternative Options:** The adoption of an alternate hazard management model, such as safety standards.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The provisions may be seen as an “arrangement” under section 45(2) of (Schedule) Part IV which restricts competition but the provisions do not *substantially* lessen competition.

**Part:** 5 - OPERATION OF MINES

**Division:** 3 - Prospecting operations

**Section(s):** 142-145

**Nature of Provisions:** The registered holder of a prospecting area must notify the district inspector of drilling operations and must appoint a competent person to be supervisor of the prospecting area.

These provisions contain an administrative notification to the regulator, through the District Inspector, of the commencement, location etc. of drilling operations, to allow oversight to occur. In practical terms there are no competitive restrictions.

**Part:** 5A - DECLARED COAL PREPARATION PLANTS

**Division:**

**Section(s):** 145A-145N

**Nature of Provisions:** The Minister may declare a plant to be suitable for management separately from a mine; the appointment of inspectors of declared plants; the duties of owners; the appointment of a plant manager with appropriate qualifications and experience; the functions of plant manager including full control of all operations and enforcement of legislation, daily attendance at plant and requirements for absences; the appointment by the manager of supervisors and the preparation by the manager of schemes for testing equipment. Notice to be given of commencement and discontinuance of operations of plant; steps to be taken when plant disused or abandoned.

Declared plants are treated in the same, or similar, way as mines under the legislation with respect to: inspectors and check inspectors' powers, notification of operations and abandonment of plant, notification of accidents and dangerous occurrences, rules and schemes, and penalties. The provisions are however less prescriptive with respect to appointment of managers and supervision of operations.

**Objective / Market Failure Addressed:** The potential for standards of safety and supervision in declared plants to fall below those required in mines, particularly open cut mines, whose operations are similar in some aspects, resulting in unsafe work practices. There may also be a potential failure to

**Statute: Coal Mines Regulation Act 1982**

protect public and environmental safety.

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	A manager's qualifications may not be considered appropriate by the Chief Inspector.	None identified.
<b>Companies / Operations</b>	An owner who holds a mining lease must request the Minister to declare that a plant may be managed separately from the mine, otherwise the plant is treated as a mine under the CMRA.	Reduced flexibility, as the manager's functions, such as constant attendance, are prescribed. Declared plants are also treated in the same way as mines in the CMRA in important areas such as the duties of inspectors and check inspectors, the preparation of rules and schemes, and investigation of accidents and dangerous occurrences. There are costs involved in compliance with the legislation, including the preparation of rules and schemes and any appeal against a decision of the Chief Inspector.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	There are similar plants in other industries which are not subject to such conditions.	There are costs involved in compliance with the legislation.
<b>State</b>	There is no separate provision in the Queensland legislation for coal preparation plants, which are included in the general definition of "coal mine" and treated as mines.	Coal preparation plants treated as mines and subject to similar competitive restrictions. There are costs involved in compliance with the legislation.
<b>Country</b>	The inclusion of coal preparation plants in legislation varies from country to country.	None identified.

**Statute: Coal Mines Regulation Act 1982**

**Effect of Competitive Restriction:** Declared coal preparation plants are subject to similar restrictions as mines, particularly with respect to approvals and inspections, resulting in reduced flexibility.

**Costs:** The costs of compliance with legislation, appeals.

**Benefits:** Frequency and stability in management; safe operations; public and environmental safety.

**Alternative Options:** The provision of a general duty on owners to ensure that a plant is managed by a competent person, and provide in the legislation for objectives and outcomes rather than prescribing rigid codes of conduct. Alternatively, the removal of plants from the CMRA and the treatment of plants as factories subject to the OH&S Act, as in other industries.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The provisions may be seen as an “arrangement” under section 45(2) of (Schedule) Part IV which restricts competition but the provisions do not *substantially* lessen competition.

<b>Part:</b> 6 - REGULATION OF TOURIST AND EDUCATIONAL ACTIVITIES IN MINES	<b>Division:</b>	<b>Section(s):</b> 146-149
<b>Nature of Provisions:</b> The Minister may issue permits to mine owners authorising tourist or educational activities at the mine. The Minister, in issuing a permit, must be satisfied that measures will be taken to protect the health and safety of visitors.		
<b>Objective / Market Failure Addressed:</b> The potential risk to the safety of members of the public entering mines.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
Personnel	None identified.	None identified.
Companies / Operations	Mine owner must have permit from the Minister.	Government control over persons entering mines restricts an owner’s control over a mine and its operations.
Industry Sector	None identified.	None identified.

**Statute: Coal Mines Regulation Act 1982**

<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified. There are no similar provisions in Queensland.	None identified.
<b>Country</b>	None identified. There are no similar provisions in USA.	None identified.
<p><b>Effect of Competitive Restriction:</b> Government control, in the form of the requirement for a permit, restricts a mine operator's control over entry of persons to the mines and operations generally. There is no requirement for a permit for entry of any members of the public other than those entering for educational or tourist purposes.</p>		
<p><b>Costs:</b> Application fee for permit and compliance costs.</p>		<p><b>Benefits:</b> The protection of public safety, by the issue of a permit by the Minister which may be subject to conditions.</p>
<p><b>Alternative Options:</b> Provide in the CMRA for a general duty of care on the part of mine operators for the safety and health of all members of the public entering mines. Alternatively, rely on the general duty on employers to ensure health and safety of persons other than employees at the place of work, contained in the OH&amp;S Act.</p>		
<p><b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.</p>		

<b>Part:</b> 7 - LEGAL PROVISIONS	<b>Division:</b> 1 - Court of Coal Mines Regulation	<b>Section(s):</b> 150-155
<p><b>Nature of Provisions:</b> Establishment of the Court of Coal Mines Regulation; jurisdiction and procedure of the court; assessors to sit with the court; appeals to the Supreme Court.</p>		

**Statute: Coal Mines Regulation Act 1982**

**Objective / Market Failure Addressed:** The requirement for a judicial body with knowledge and experience in assessing matters involving coal mining to conduct inquiries, hear prosecutions and impose penalties.

These provisions do not fall strictly within the ambit of competition policy, but they raise issues of administrative efficiency.

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Inefficiencies in court process such as undue delay or formality may impede operations. There are also the legal costs arising from court proceedings.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified.	None identified.
<b>Country</b>	None identified.	None identified.

**Effect of Competitive Restriction:** Operations may be hampered by delay, formality and costs associated with the current court system.

**Costs:** The legal costs of court proceedings.

**Benefits:** A separate judicial body with specialised experience, knowledge and interest in coal mining.

**Alternative Options:** The court's administrative functions may be transferred to the Administrative Decisions Tribunal, and the criminal functions may be exercised by a Local Court. It may also be possible to proceed in some matters under the OH&S Act, which provides for actions in a Local Court or the Industrial Court. In relation to the investigatory function of the court, the proposed amendments to the CMRA provide for a Board of Inquiry to conduct a special inquiry into an accident, occurrence, practice or matter.

**Statute: Coal Mines Regulation Act 1982**

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

**Part: 7 - LEGAL PROVISIONS**

**Division: 2 - Offences and proceedings for offences**

**Section(s): 156-166**

**Nature of Provisions:** Offences under the CMRA to be dealt with by a magistrate of a Local Court; informations in respect of offences to be laid within 2 years of the date of the offence or any special report or inquest; admissibility of documentary evidence; offences against the CMRA; owners and mine officers also liable when offence committed and directors and officers of corporations may be liable where offence committed by the corporation; defences and penalties.

These provisions are administrative and are not considered to impact on competition in the industry.

**Part: 8 - GENERAL**

**Division:**

**Section(s): 167-174**

**Nature of Provisions:** Delegation of functions by the Minister or Chief Inspector; working hours of mine employees; protection of employees from dismissal for assisting investigations; service of notices under the CMRA; appointments under the CMRA or regulations must be in writing; requirements with respect to records, returns and information; continuation of appointments made by mine owners or officials; any monies received under the CMRA to be paid into the Consolidated Revenue Fund; regulations under the CMRA to be made by the Governor; matters to be provided for in the regulations.

**Objective / Market Failure Addressed:** The potential that employees will be required to work, or will volunteer to work for unreasonable and unsafe lengths of time for various reasons (Section 168 - working hours - although the 18 hour shift specified is so long as to have no real practical application.) The potential for employees to be dismissed or prejudiced in their employment for complying with the requirement under the CMRA to assist an investigation (Section 168A - protection of employees.)

Section 174(5), relating to exemptions given by the Chief Inspector, may have competitive impacts, as outlined below. Otherwise the provisions in this part are largely administrative and no competitive restrictions are identified.

**Statute: Coal Mines Regulation Act 1982**

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Section 174(5) - an exemption given by the Chief Inspector may give an advantage to one mine over others in the form of increased flexibility or productivity but may also impose a restriction through conditions attached to the exemption. There may be additional costs to mine operations not subject to exemptions.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified. Queensland has no similar provisions in relation to hours of work, but this may be covered by general health and safety provisions in the act. There are no similar provisions in relation to protection of employees.	None identified.
<b>Country</b>	None identified.	None identified.
<b>Effect of Competitive Restriction:</b> An exemption given by the Chief Inspector may impose a restriction through conditions attached to the exemption.		
<b>Costs:</b> The additional costs to mine operations not subject to exemptions.		<b>Benefits:</b> Increased efficiency in operations and improved productivity through not being required to comply with certain provisions of the regulations, the rules or a scheme which may restrict competition.



**Statute: Coal Mines Regulation Act 1982**

In relation to hours of work and protection of employees - safety and health of workers and fairness in the workplace; employees able to take part in an investigative process without prejudice.

**Alternative Options:** Working hours are covered in employees' awards and in the general health and safety provisions of the OH&S Act.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The provisions may be seen as an "arrangement" under section 45(2) of (Schedule) Part IV which restricts competition but the provisions do not *substantially* lessen competition.

## **APPENDIX C**

### **REGULATIONS UNDER THE COAL MINES REGULATION ACT 1982**

#### **1. COAL MINES (GENERAL) REGULATION 1999**

##### **Part 1 Preliminary**

##### **Part 2 General provisions**

Division 1 General duties of managers, owners, employees and other persons

Division 2 Application of codes, standards or guidelines to mines and declared plants

Division 3 Elimination or avoidance of dangers

Division 4 Fire control and emergency systems

Division 5 Plant safety

Division 6 Prohibition of alcohol and drugs

##### **Part 3 Mining officials**

##### **Part 4 Communication of information to workers**

##### **Part 5 Qualifications of inspectors, mine engineers and mine surveyors**

##### **Part 6 Election of check inspectors, district check inspectors and electrical check inspectors**

##### **Part 7 Surveys and plans of mines**

##### **Part 8 Approval of items**

##### **Part 9 First aid and general welfare**

Division 1 First aid

Division 2 General welfare

##### **Part 10 Additional provisions in respect of declared plants**

##### **Part 11 Miscellaneous**

##### **Schedule 1 Repeals**

## **2. COAL MINES (UNDERGROUND) REGULATION 1999**

### **Part 1 Preliminary**

### **Part 2 Operations and working practices**

Division 1 General

Division 2 Inspection systems

Division 3 Deputies

Division 4 Inspections

Division 5 Notification of dangerous occurrences

Division 6 Information and communication

Division 7 Working dimensions and breakaway rules

Division 8 Inrush

Division 9 Support

### **Part 3 Transport**

Division 1 Preliminary

Division 2 General

Division 3 Powered winding systems

Division 4 Underground transport

Division 5 Surface transport

### **Part 4 Ventilation**

Division 1 Ventilation control systems

Division 2 Ventilation officers

Division 3 Regulation of ventilation

Division 4 Mine ventilation failures

Division 5 Fan installations

Division 6 Doors, sheets, stoppings and air-crossings

Division 7 Conditions of danger

## **Part 5 Emergency provisions**

## **Part 6 Fire control**

Division 1 Fire officers and fire brigades

Division 2 Fire station, substations and depots

Division 3 Water supply system, rules and plans

## **Part 7 Controlled materials**

Division 1 Prohibition of smoking materials

Division 2 Use or storage of certain materials underground

## **Part 8 Monitoring and detecting equipment**

## **Part 9 Electrical equipment**

## **Part 10 Shotfiring and explosives**

Division 1 Preliminary

Division 2 Shotfiring

Division 3 Shotfiring and explosives systems

Division 4 Explosives

## **Part 11 Airborne dust**

Division 1 Preliminary

Division 2 Working practices

Division 3 Collection and analysis of dust samples

Division 4 General provisions

## **Part 13 Coal dust explosion prevention and suppression**

Division 1 Preliminary

Division 2 General

Division 3 Sampling and testing of roadway dust

**Part 13 Sinking of shafts**

**Part 14 Belt conveyors**

**Part 15 Exemptions**

**Schedule 1** Matters to be covered by mine inspection systems

### **3. COAL MINES (OPEN CUT) REGULATION 1999**

**Part 1 Preliminary**

**Part 2 Operations and working practices**

Division 1 Inspection systems

Division 2 Examiner's functions and duties

Division 3 Examinations and reports

Division 4 General

**Part 3 Shotfiring and explosives**

**Part 4 Airborne dust**

**Part 5 Exemptions**

**Regulation: Coal Mines (General) Regulation 1999**

<b>Part: 1 - PRELIMINARY</b>	<b>Division:</b>	<b>Clause(s): 1-4</b>
<b>Nature of Provisions:</b> Commencement date of Coal Mines (General) Regulation; application of Regulation to underground mines, open cut mines and declared plants; definitions.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part: 2 - GENERAL PROVISIONS</b>	<b>Division: 1-6</b>	<b>Clause(s): 5-43</b>
<b>Nature of Provisions:</b> General duties of managers, owners, employees and other persons, including assessment of risks to health and safety and preparation of mine safety management plans; standards of electrical engineering practice and mechanical engineering practice to be established and monitored; application of codes, standards or guidelines to mines and declared plants by the Chief Inspector; action to be taken to eliminate or avoid dangers; requirement for fire control and emergency systems to be developed and implemented; requirements for plant safety, including guarding of machinery, provisions for safe use of machinery and equipment, and electrical installations; prohibition of alcohol and drugs at a mine or declared plant.		
<b>Objective / Market Failure Addressed:</b> The need to ensure that good working practice is followed in mines and to formalise systems currently in operation.. There is also the requirement in the provisions for mines to follow the relevant Australian Standard, as is common in industry generally.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Time and cost involved in preparation of mine safety management plans and in implementing systems, and lack of flexibility in the application of codes standards and guidelines (although in many cases the requirements are left open and flexible to allow individual mines to adapt systems to their needs).

**Regulation: Coal Mines (General) Regulation 1999**

<b>Industry Sector</b>	None identified.	Underground mines may have higher costs of compliance.
<b>Support Industries</b>	Application of codes and standards may restrict the market for machinery, equipment etc.	Higher costs of production due to need to produce goods which comply with provisions.
<b>Coal Mining Industry</b>	None identified.	Compliance costs.
<b>State</b>	None identified. Queensland is now adopting a risk assessment approach, including preparation of mine safety management plans and principal hazard management plans.	Time and cost involved in preparation of mine safety management plans and principal hazard management plans.
<b>Country</b>	None identified. Preparation of plans required for some operations in USA.	None identified.
<p><b>Effect of Competitive Restriction:</b> Productivity may be affected due to time and cost involved in preparation of mine safety management plans and in implementing systems, and lack of flexibility in the application of some codes standards and guidelines.</p>		
<p><b>Costs:</b> Compliance costs, possible higher costs to support industries however it is unlikely that any costs involved would be substantially anti-competitive, or unreasonable.</p>		<p><b>Benefits:</b> Safe operations and good working practice. The general duties contained in the provisions follow the OH&amp;S Act and international conventions. Mine safety management plans facilitate the compilation of all documents usually held at a mine.</p>
<p><b>Alternative Options:</b> Rely on the OH&amp;S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for “performance standards” - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.</p>		
<p><b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.</p>		

**Regulation: Coal Mines (General) Regulation 1999**

<b>Part:</b> 3 - MINING OFFICIALS	<b>Division:</b>	<b>Clause(s):</b> 44-47
<b>Nature of Provisions:</b> Appointment and duties of mining officials; instructions given by officials not to contravene legislation; suspension by manager or other official of persons contravening legislation.		
These provisions are administrative and reflect sound workplace management practice, and are not considered to impact on competition in the industry.		

<b>Part:</b> 4 - COMMUNICATION OF INFORMATION TO EMPLOYEES	<b>Division:</b>	<b>Clause(s):</b> 48-52
<b>Nature of Provisions:</b> Employees must be informed of hazards and given information concerning the legislation; requirements for inspectors' advices, notices or orders, including requirement for advices under section 61 to be in writing and for the display of certain advices and notices; Chief Inspector may publish information relating to safety and health.		
These provisions are administrative and provide for safety and health measures in the workplace in accordance with obligations under the OH&S Act. The provisions are not considered to impact on competition in the industry.		

<b>Part:</b> 5 - QUALIFICATIONS OF INSPECTORS, MINE ENGINEERS AND MINE SURVEYORS	<b>Division:</b>	<b>Clause(s):</b> 53-58
<b>Nature of Provisions:</b> Prescribed qualifications for chief inspectors, deputy chief inspectors, senior inspectors and inspectors. Qualifications of senior inspectors and inspectors of electrical and mechanical engineering. Qualifications of mine electrical and mechanical engineers, and mine surveyors.		
The competitive impacts in relation to the required qualifications of inspectors were identified in the analysis of the CMRA (Part 2 - Administration - Departmental inspectors and mine safety officers.) The new regulations open the entry barriers to allow persons who do not have the prescribed years of experience as a manager of an underground Australian coal mine to be considered for appointment by the Director-General, on the recommendation		



**Regulation: Coal Mines (General) Regulation 1999**

of the Chief Inspector.

<b>Part:</b> 6 - ELECTION OF CHECK INSPECTORS, DISTRICT CHECK INSPECTORS AND ELECTRICAL CHECK INSPECTORS	<b>Division:</b>	<b>Clause(s):</b> 59-62
<b>Nature of Provisions:</b> Persons entitled to vote at an election of check inspectors, district check inspectors and electrical check inspectors; conduct of elections. The regulations implement section 72 of the CMRA, which provides for the election of check inspectors.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part:</b> 7 - SURVEYS AND PLANS OF MINES	<b>Division:</b>	<b>Clause(s):</b> 63-68
<b>Nature of Provisions:</b> Definition of <i>mine surveyor</i> ; qualifications and duties of a mine surveyor; surveying and drafting instructions to be issued by Chief Inspector; types of plans to be kept at a mine; mine record tracing to be provided to Chief Inspector; furnishing of documents and information by the mine manager or Chief Inspector on request by the owner or manager of an adjoining mine.		
<b>Objective / Market Failure Addressed:</b> The failure to keep proper plans of workings which may impede operations or result in a major accident.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Surveyor must hold certificate of competency and be appointed by the owner, superintendent or manager.	None identified.
<b>Companies / Operations</b>	None identified.	The costs of keeping plans in accordance with directions of Chief Inspector, furnishing plans if required and ensuring that plans are up to date.

**Regulation: Coal Mines (General) Regulation 1999**

<b>Industry Sector</b>	None identified.	Additional ventilation plan to be kept by underground mine, and there may be other more onerous requirements for underground mines.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	The costs of maintaining comprehensive up to date survey plans.
<b>State</b>	None identified. In Queensland survey plans form part of the safety and health management system.	The costs of maintaining comprehensive up to date survey plans as part of the safety and health management system.
<b>Country</b>	None identified.	There are similar overseas provisions.
<b>Effect of Competitive Restriction:</b> Imposes costs on company and possibly additional work in complying with the directions of the Chief Inspector. This reduces flexibility and may affect productivity.		
<b>Costs:</b> Compliance costs.		<b>Benefits:</b> Safe mining operations, uniformity in the plans kept by different mines.
<b>Alternative Options:</b> Provide a general duty on operators, with mine survey plans to form part of an overall health and safety management system.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

<b>Part:</b> 8 - APPROVAL OF ITEMS	<b>Division:</b>	<b>Clause(s):</b> 69-73
<b>Nature of Provisions:</b> Definitions; the Chief Inspector may approve or may require approval of items, systems, equipment, apparatus, material or things and may impose conditions in such approvals; Chief Inspector may temporarily approval items or systems pending tests or trials; Chief Inspector		

**Regulation: Coal Mines (General) Regulation 1999**

may accredit an assessing authority in relation to approval of items or systems.

**Objective / Market Failure Addressed:** The potential for the provision and use in mines of unsafe or outmoded equipment due to lack of knowledge / costs saving.

<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	Operating systems and use of equipment subject to approvals / conditions.	Reduced flexibility in implementing, controlling and changing workplace systems and operations. The costs of obtaining approvals, possible higher costs of using only approved systems and equipment.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	Provision of systems and equipment to coal mines subject to approvals and conditions set by Chief Inspector / assessing authority.	Limitations and restrictions on the market for equipment reduces competition between designers, manufacturers and suppliers. The costs of developing a product then being unable to obtain the requisite approvals. There may also be additional costs imposed through conditions attached to approvals.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified.	None identified. The Queensland legislation provides for a general duty on designers, manufacturers, importers and suppliers to ensure that equipment, plant and substances are tested and examined so that , when used properly, there is “acceptable” risk to users. There is also

**Regulation: Coal Mines (General) Regulation 1999**

		provision for the Chief Inspector to take action in relation to unsafe equipment, etc.
<b>Country</b>	In USA, the Code of Federal Regulations (CFR) requires that items be “permitted.”	None identified.
<b>Effect of Competitive Restriction:</b> The main competitive impact is on designers, manufacturers and suppliers whose systems and equipment are subject to approvals and conditions. This may reduce competition in the market.		
<b>Costs:</b> Costs associated with obtaining approvals, using only approved systems and equipment, developing a product then being unable to obtain the requisite approvals, and costs imposed through conditions attached to approvals.		<b>Benefits:</b> The requirement for certain items, systems, equipment etc. to be approved and to be subject to conditions ensures that mining operations are safe, up-to-date, efficient and cost-effective.
<b>Alternative Options:</b> Provide that equipment etc. supplied to mines must comply with the relevant Australian standard and include in the legislation a general duty on designers, manufacturers and suppliers to provide safe equipment.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

<b>Part:</b> 9 - FIRST-AID AND GENERAL WELFARE	<b>Division:</b> 1-2	<b>Clause(s):</b> 74-79
<b>Nature of Provisions:</b> Requirements for a first-aid system which must be developed and implemented at a mine or declared plant; manager must ensure competency and training of personnel in first-aid duties; adequate bath and change houses and sanitary facilities must be provided and kept hygienic; appropriate personal protective equipment must be provided and maintained in good working order, and persons provided with equipment must be trained in its use.		
These provisions implement required industry standards for safety and health in the workplace and may only have a minor impact on competition.		

**Regulation: Coal Mines (General) Regulation 1999**

<b>Part:</b> 10 - ADDITIONAL PROVISIONS IN RESPECT OF DECLARED PLANTS	<b>Division:</b>	<b>Clause(s):</b> 80-83
<b>Nature of Provisions:</b> A declared plant must be maintained separate from any adjoining mine; modification of certain provisions of the CMRA in their application to declared plants; plant manager must notify district inspector and district check inspector of dangerous occurrences.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part:</b> 11 - MISCELLANEOUS	<b>Division:</b>	<b>Clause(s):</b> 84-88
<b>Nature of Provisions:</b> Suspension or cancellation of certificates of competency of mine managers and other mine officials; reportable accidents for the purposes of Divisions 5 and 6 and Part 4 of the CMRA; fees for permits for tourist activities and educational purposes; offences and penalties; manager may request exemption by Chief Inspector from complying with provision of regulations; repeals.		
These provisions are administrative, apart from Clause 92 which provides for mine managers to apply to the chief Inspector for exemption from the regulations. If the manager of a mine is able to obtain an exemption, that mine may be in a more competitive position than others. On the other hand, an exemption obtained may be subject to conditions which may impact on competition.		

**Regulation: Coal Mines (Underground) Regulation 1999**

<b>Part:</b> 1 - PRELIMINARY	<b>Division:</b>	<b>Clause(s):</b> 1-5
<b>Nature of Provisions:</b> Commencement date and application of Coal Mines (Underground) Regulation to underground mines; definitions; duty of mine manager to ensure compliance with Regulation.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part:</b> 2 - OPERATIONS AND WORKING PRACTICES	<b>Division:</b> 1-9	<b>Clause(s):</b> 6-51
<b>Nature of Provisions:</b> General provisions (implementation of management structure, control of persons working underground, withdrawal of persons from mines, duties of mining officials); implementation of mine inspection systems; duties of deputies; inspections of production districts at mines, and belt conveyors; notification of dangerous occurrences and other incidents; communication of information to deputies, other officials, employees, and between personnel; working dimensions and breakaway rules, including dimensions of pillars and roadways; implementation of an inrush prevention system; prescribed matters for the making of support rules.		
<b>Objective / Market Failure Addressed:</b> The potential failure to provide strict controls over management of operations and workers in order to ensure safety; the need to provide for basic safety requirements for underground mines in key areas.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Requirement that inexperienced persons may not work unaccompanied.	None identified.
<b>Companies / Operations</b>	None identified.	Lack of flexibility / time / costs in complying with Chief Inspector's specifications, obtaining approvals and implementing systems. Disruption to operations by inspections.
<b>Industry Sector</b>	None identified.	Underground mines may have higher compliance

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		costs.
<b>Support Industries</b>	None identified.	Requirements for approvals and compliance with specifications may reduce market for goods and impose higher costs on support industries.
<b>Coal Mining Industry</b>	None identified.	Higher costs to industry generally.
<b>State</b>	None identified. Queensland is now adopting a risk assessment approach, including preparation of mine safety management plans and principal hazard management plans.	Time and cost involved in preparation of mine safety management plans and principal hazard management plans.
<b>Country</b>	None identified.	In USA, covered by the Code of Federal Regulations (CFR). Compliance costs.

**Effect of Competitive Restriction:** Lack of flexibility, time spent and the costs of complying with specifications, obtaining approvals and implementing systems. Disruption to operations by inspections.

**Costs:** Compliance costs, possible higher costs to support industries however it is unlikely that any costs involved would be substantially anti-competitive, or unreasonable.

**Benefits:** The provisions provide basic rules of management and safety requirements which represent good practice in a potentially hazardous workplace, and support the government's obligations under international conventions (particularly in relation to mine inspection systems.) The provisions include methods for monitoring and controlling key hazards in coal mining such as inrush (as recommended in the Gretley report.)

**Alternative Options:** Rely on the OH&S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for "performance standards" - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade

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Practices Act.

<b>Part:</b> 3 - TRANSPORT	<b>Division:</b> 1-5	<b>Clause(s):</b> 52-70
<p><b>Nature of Provisions:</b> Definition of <i>transport</i>; general provisions for the conveyance of persons underground; definition of <i>powered winding system</i> and requirement for approval; application of division to underground transport and requirements for the development and maintenance of underground transport; prescribed matters for the making of transport rules for underground and surface transport.</p>		
<p><b>Objective / Market Failure Addressed:</b> The potential failure to apply proper standards for operating transport in regards to the appointment of operators and the maintenance of vehicles, equipment and trackworks, and to apply basic safe working guidelines.</p>		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Compliance costs. The need to obtain approvals and comply with Australian Standards.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	The requirement for the use of only approved powered winding systems may impose costs and restrict the market.
<b>Coal Mining Industry</b>	None identified.	Compliance costs.
<b>State</b>	None identified.	Arrangements for transport to be included in mine safety management plans. Compliance costs.
<b>Country</b>	None identified.	In USA, covered by the Code of Federal



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Regulations (CFR). Compliance costs.

**Effect of Competitive Restriction:** The costs of compliance and the need to obtain approvals and comply with Australian Standards may restrict competition.

**Costs:** The (not unreasonable) costs of providing a safe working system and complying with Australian Standards in accordance with industry generally.

**Benefits:** Safe operations and good working practice.

**Alternative Options:** Rely on the OH&S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for “performance standards” - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

**Part:** 4 - VENTILATION

**Division:** 1-7

**Clause(s):** 71-101

**Nature of Provisions:** Implementation of ventilation control systems; appointment, qualifications and duties of ventilation officers; measurement of gases in the air; procedures for the regulation of ventilation; provisions for failure of mine ventilation systems; fan installations; installation of fireproof doors, requirements for sheets, stoppings and air crossings; procedures where conditions of danger exist.

**Objective / Market Failure Addressed:** To provide for proper ventilation which is essential to ongoing mine operations and the safety of workers. The potential failure is that ventilation will not be properly controlled in mine with the potential of serious accident.

**Competitive Effect On / Through:**

**Market Entry Barriers or Sanctions**

**Restriction on Competitive Behaviour**

**Personnel**

A ventilation officer must have tertiary education and demonstrated knowledge and competency.

None identified.

**Companies / Operations**

None identified.

Time and costs involved in the development and

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		implementation of a ventilation control system, appointment of a ventilation officer and in putting in place the requirements of the provisions.
<b>Industry Sector</b>	Provisions apply only to underground mines.	As the provisions apply only to underground mines, the underground sector has higher costs than open cut.
<b>Support Industries</b>	None identified.	Requirements for ventilation materials etc may impose additional costs to support industries.
<b>Coal Mining Industry</b>	None identified.	Higher costs to industry.
<b>State</b>	None identified.	In Queensland ventilation is included in safety and health management system and also possibly in principal hazard management plan. The legislation also provides for appointment of a ventilation officer. This imposes costs on the underground sector.
<b>Country</b>	None identified.	In USA, covered by the Code of Federal Regulations (CFR). Compliance costs.
<p><b>Effect of Competitive Restriction:</b> A ventilation officer must have tertiary education and demonstrated knowledge and competency, however given the technical requirements of mine ventilation this is not considered to be unreasonable. There is also the time and costs involved in putting in place the requirements of the provisions, borne only by the underground sector. This reduces flexibility and may affect productivity.</p>		
<p><b>Costs:</b> Costs of appointing ventilation officer and implementing provisions; higher costs to underground than open cut; possible additional costs to support industries.</p>		<p><b>Benefits:</b> The maintenance of proper ventilation which is essential to ongoing mine operations and the safety of workers.</p>
<p><b>Alternative Options:</b> Rely on the OH&amp;S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for</p>		

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“performance standards” - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

<b>Part:</b> 5 - EMERGENCY PROVISIONS	<b>Division:</b>	<b>Clause(s):</b> 102-107
<b>Nature of Provisions:</b> Implementation of underground emergency systems; competency and training of personnel; escape equipment and self rescuers; egress plans.		
These are basic essential emergency provisions which do not impose unreasonable obligations on management in the provision of an emergency system, documentation of that system and periodic review. The provisions implement required industry standards for a hazardous workplace and any competitive impacts are minor.		

<b>Part:</b> 6 - FIRE CONTROL	<b>Division:</b> 1-3	<b>Clause(s):</b> 108-117
<b>Nature of Provisions:</b> Appointment and duties of fire officers; establishment of fire brigades and fire station, substations and depots; requirements of firefighting water supply system, preparation of firefighting rules and plans.		
<b>Objective / Market Failure Addressed:</b> The failure to provide proper equipment and have proper procedures in place for fire control.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Fire officer and brigade member must be trained and be experienced in the use of mine plans and workings.	None identified.
<b>Companies / Operations</b>	None identified.	The costs of training fire officers, setting up and

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		equipping fire stations and depots, preparing and keeping plans. Possible loss of productivity if fire officer unable to carry out usual work when engaged in fire duties.
<b>Industry Sector</b>	None identified.	Provisions only apply to underground mines, so higher costs than open cut sector.
<b>Support Industries</b>	None identified.	Some equipment must comply with Australian Standards - may increase production costs and restrict market.
<b>Coal Mining Industry</b>	None identified.	Compliance costs - higher costs to industry.
<b>State</b>	None identified.	In Queensland fire control is included in safety and health management system and also possibly in principal hazard management plan. This imposes costs on the underground sector.
<b>Country</b>	None identified.	The USA has similar prescriptive requirements directed more towards fire control than prevention ,with associated compliance costs.
<p><b>Effect of Competitive Restriction:</b> The costs of training fire officers, setting up and equipping fire stations and depots, preparing and keeping plans. Possible loss of productivity if fire officer unable to carry out usual work when engaged in fire duties.</p>		
<p><b>Costs:</b> Compliance costs.</p>		<p><b>Benefits:</b> The legislation ensures that proper procedures are in place to deal with a major hazard in mines - fire. The provisions set down minimum fire-fighting standards for a hazardous workplace.</p>
<p><b>Alternative Options:</b> Rely on the OH&amp;S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for “performance standards” - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty</p>		

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on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

<b>Part:</b> 7 - CONTROLLED MATERIALS	<b>Division:</b> 1-2	<b>Clause(s):</b> 118-125
<b>Nature of Provisions:</b> Definitions; prohibition of smoking materials underground or in designated areas; searching for, and confiscation of, smoking material; prohibition on use of aluminium and light metal alloys; storage and location of flammable material and liquid; use of fire resistant fluids.		
<b>Objective / Market Failure Addressed:</b> Need to protect workers safety by having in place proper controls in respect of flammable substances.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Costs of compliance, including obtaining approvals for aluminium and alloys, and costs of storage of flammable materials and liquids.
<b>Industry Sector</b>	None identified.	Provisions only apply to underground mines, so higher costs than open cut sector.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	None identified.
<b>State</b>	None identified.	In Queensland similar requirements may form part of “recognised standards” - compliance costs.

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<b>Country</b>	None identified.	There are similar provisions in USA safety standards.
<b>Effect of Competitive Restriction:</b> Costs of compliance, including obtaining approvals and storage. This may affect productivity.		
<b>Costs:</b> Costs of compliance.		<b>Benefits:</b> Safe operations and protection of workers - the proper control of flammable substances in a hazardous workplace.
<b>Alternative Options:</b> Provide for a general duty on operators, with separate codes, standards and guidelines. Provisions in respect of prohibited materials may form part of a general duty on persons to take care for their own and others' safety.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

<b>Part:</b> 8 - MONITORING AND DETECTING EQUIPMENT	<b>Division:</b>	<b>Clause(s):</b> 126-132
<b>Nature of Provisions:</b> Requirement for the provision of sufficient air monitoring equipment in a mine; transport, continuous miner and longwall mining to have automatic methane monitors; gas content of air to be monitored and recorded; mine manager must develop and implement a gas monitoring system for the mine.		
<b>Objective / Market Failure Addressed:</b> The potential failure to control air quality in a mine with serious effects on workers' health and the possibility of a major accident.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Costs of installing and maintaining equipment

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		and obtaining approvals, time spent in developing and implementing gas monitoring systems.
<b>Industry Sector</b>	None identified.	Provisions only apply to underground mines, so higher costs than open cut sector.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Higher costs to industry through compliance.
<b>State</b>	None identified.	In Queensland monitoring and detecting air quality is included in safety and health management system and also possibly in principal hazard management plan. This imposes costs on the underground sector.
<b>Country</b>	None identified.	USA and UK have similar provisions - compliance costs.

**Effect of Competitive Restriction:** Costs and time spent in compliance may affect productivity.

**Costs:** Costs of installing and maintaining equipment and obtaining approvals.

**Benefits:** Proper control of air quality in a mine - essential to the safety and health of workers.

**Alternative Options:** Rely on the OH&S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for “performance standards” - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

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<b>Part:</b> 9 - ELECTRICAL EQUIPMENT	<b>Division:</b>	<b>Clause(s):</b> 133-147
<p><b>Nature of Provisions:</b> Definitions; use of portable electrical apparatus; safety requirements for work on explosion protected electrical equipment in hazardous zones, and on uninsulated conductors; procedure if gas detected; checking for methane before power introduced into a mine; rules for removal or restoration of power; separate power supply in sections of mine; requirements for explosion protection; requirements for electrical apparatus and cables; restriction of, and protection against, earth fault current; electrical protection; provisions for transformers and batteries; plans and notices to be kept and exhibited at a mine; facilities for maintenance of cable and explosion protected electrical equipment; electrical equipment maintenance systems to be developed and implemented; means of communication with the surface.</p>		
<p>These are safety provisions designed to prevent dangerous situations developing from the use of electrical equipment in mines, including explosions due to high gas concentrations, and fires. The provisions require equipment to comply with Australian standards, as is usual in industry regulation. There is also the requirement for equipment to be approved (by the Chief Inspector.) The necessity for equipment to comply with standards and / or be approved may be considered to be a competitive restriction on support industries (manufacturers and suppliers) as it imposes compliance costs. An alternative to approval by the Chief Inspector may be approval by an accredited assessing authority, which allows the approval process to be contestable in the market.</p>		

<b>Part:</b> 10 - SHOTFIRING AND EXPLOSIVES	<b>Division:</b> 1-4	<b>Clause(s):</b> 148-160
<p><b>Nature of Provisions:</b> Definition of <i>shotfirer</i>; implementation of systems for the use of explosives and detonators, including training of personnel; electric shotfiring apparatus must be approved; appointment and qualifications of shotfirers and appointment of trainees; requirement that shotfirer must be employed and paid by mine owner; approval by Chief Inspector of explosives and detonators; maximum weight of explosives; manager must ensure that records are kept.</p>		
<p><b>Objective / Market Failure Addressed:</b> The potential failure to provide proper controls in a potentially hazardous operation which may affect workers' safety.</p>		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	Shotfirer must be employed by mine owner, appointed by mine manager in writing, be	None identified.



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	qualified as a deputy, have undertaken an appropriate course, be medically fit and must be retrained if away from work for a period of time.	
<b>Companies / Operations</b>	None identified.	Costs of employing shotfirer, developing and implementing shotfiring and explosives system.
<b>Industry Sector</b>	None identified.	None identified, there are shotfiring and explosives provisions for both underground and open cut sectors.
<b>Support Industries</b>	None identified.	The need for explosives to be approved may impose additional costs and restrict the market.
<b>Coal Mining Industry</b>	None identified.	Compliance costs - higher costs to industry.
<b>State</b>	None identified.	In Queensland forms part of safety and health management system and imposes costs on the underground sector.
<b>Country</b>	None identified.	There are similar provisions in USA and UK for shotfiring and the use of explosives in mines. Compliance costs.
<p><b>Effect of Competitive Restriction:</b> Entry barriers on personnel may impose restrictions on the market. The costs to a company of employing shotfirer and developing and implementing shotfiring and explosives system may affect productivity. The need for explosives to be approved may impose additional costs on support industries and restrict the market.</p>		
<p><b>Costs:</b> Compliance costs for companies and support industries.</p>		<p><b>Benefits:</b> Workers' safety, efficient mine operations.</p>
<p><b>Alternative Options:</b> Rely on the OH&amp;S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for "performance standards" - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.</p>		

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**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

<b>Part:</b> 11 - AIRBORNE DUST	<b>Division:</b> 1-4	<b>Clause(s):</b> 161-169
<b>Nature of Provisions:</b> Definitions; working practices to be implemented by manager; prescribed matters for the preparation of airborne dust rules by manager; collection and analysis of dust samples by persons appointed by manager and action to be taken following analysis; manager must ensure steps to prevent dust entering intake airways, provision of plant to control dust at surface works.		
<b>Objective / Market Failure Addressed:</b> The potential that airborne dust will not be properly controlled, with serious effects on workers' health.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Costs / time spent in developing and implementing rules, collecting and analysing dust samples in accordance with Australian Standard.
<b>Industry Sector</b>	None identified.	None identified, there are airborne dust provisions for both underground and open cut sectors.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Compliance costs - higher costs to industry.
<b>State</b>	None identified.	In Queensland forms part of safety and health management system and imposes costs on the underground sector.

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<b>Country</b>	None identified.	There are similar provisions in USA and UK with similar compliance costs.
<b>Effect of Competitive Restriction:</b> May impose restrictions on productivity due to the costs and time spent in developing and implementing rules, and collecting and analysing dust samples.		
<b>Costs:</b> Compliance costs.	<b>Benefits:</b> Protection of workers' health, good work practice.	
<b>Alternative Options:</b> Rely on the OH&S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for "performance standards" - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

<b>Part:</b> 12 - COAL DUST EXPLOSION PREVENTION AND SUPPRESSION	<b>Division:</b> 1-3	<b>Clause(s):</b> 170-186
<b>Nature of Provisions:</b> Definitions; mine manager must ensure that means are in place to prevent underground explosion involving coal dust; maintenance and reduction of levels of incombustible content of roadway dust; review by Chief Inspector of mine manager's determinations of maximum likely gas concentrations; restrictions on use of stone dust; explosion barriers etc to be installed and maintained in roadways; development and implementation of explosion suppression systems by manager; sampling and testing of roadway dust by departmental examiners and functions of examiners; methods of taking and testing roadway dust samples.		
<b>Objective / Market Failure Addressed:</b> To provide effective procedures for the control of coal dust and for the prevention of explosions involving coal dust.		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>

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<b>Personnel</b>	Roadway dust examiners must hold deputy's certificate.	None identified.
<b>Companies / Operations</b>	None identified.	Time and costs involved in preparing and implementing an explosion suppression system and in complying with an inspector's or examiner's directions. Lack of flexibility in following prescribed requirements for system. Costs of periodic audits, appointment of person to collect samples.
<b>Industry Sector</b>	None identified.	Provisions only apply to underground mines, so higher costs than open cut sector.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Compliance costs - higher costs to industry.
<b>State</b>	None identified.	In Queensland forms part of safety and health management system and imposes costs on the underground sector.
<b>Country</b>	None identified.	There are similar provisions in USA and UK with similar compliance costs.
<p><b>Effect of Competitive Restriction:</b> May impose restrictions on productivity due to the time and costs of preparing and implementing an explosion suppression system and in complying with an inspector's or examiner's directions. Lack of flexibility in operations in being required to follow prescribed requirements.</p>		
<p><b>Costs:</b> Costs of preparing and implementing an explosion suppression system, periodic audits, and of appointment of person to collect samples.</p>		<p><b>Benefits:</b> Protection of health and safety of workers, efficient work practices.</p>

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**Alternative Options:** Rely on the OH&S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for “performance standards” - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

<b>Part:</b> 13 - SINKING OF SHAFTS	<b>Division:</b>	<b>Clause(s):</b> 187-197
<p><b>Nature of Provisions:</b> Requirement that manager must notify the district inspector of the opening of new shafts; provision of guides and guide attachments; manager must have in place scheme for examination and testing of plant used in connection with sinking shaft; equipment used for lining must be regularly checked; requirements for cradles and platforms; banksperson’s duties; engines which are not fixed only to be used in certain circumstances; types and numbers of signals; requirements for kibbles and buckets, including loading.</p>		
<p><b>Objective / Market Failure Addressed:</b> These are safety requirements in mining.</p>		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Prescribed requirements restrict flexibility, costs of compliance.
<b>Industry Sector</b>	None identified.	Provisions only apply to underground mines, so higher costs than open cut sector.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Compliance costs - higher costs to industry.

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<b>State</b>	None identified.	In Queensland forms part of safety and health management system and imposes costs on the underground sector.
<b>Country</b>	None identified.	There are similar provisions in USA and UK with similar compliance costs.
<b>Effect of Competitive Restriction:</b> May impose restrictions on a company's flexibility.		
<b>Costs:</b> Costs of compliance.		<b>Benefits:</b> Workplace safety in a dangerous operation, consistent work practices in mines, proper oversight through notification.
<b>Alternative Options:</b> Rely on the OH&S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for "performance standards" - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.		
<b>Status With Respect to Trade Practices Act 1974 and Competition Code:</b> The effects of the provisions do not contravene Part IV of the Trade Practices Act.		

<b>Part:</b> 14 - BELT CONVEYORS	<b>Division:</b>	<b>Clause(s):</b> 198-204
<b>Nature of Provisions:</b> A belt conveyor must not be used in dusty places unless explosion prevention and suppression requirements complied with; Chief Inspector may require provision of additional airway; reduction of velocity in underground roadway; installation, operation and maintenance of belt conveyors; cleaning of underground roadways.		
These are additional provisions to the Coal Mines (General) Regulation which provides that conveyors must be designed, constructed, installed and operated in accordance with the Australian standard. This is consistent with overseas regulation, in particular USA. The competitive restrictions identified are the necessity to install an additional airway if required by the Chief Inspector, as this may result in increased costs and disruption to operations, and the general compliance costs. A mine may apply for an exemption from such a direction.		

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**Part:** 15- EXEMPTIONS

**Division:**

**Clause(s):** 205

**Nature of Provisions:** A mine manager may apply to the Chief Inspector for an exemption from complying with a provision of the Regulation.

The obtaining of an exemption by a mine may give an advantage to that mine over others which may enhance that mine's competitiveness. On the other hand, the exemption obtained may be subject to conditions which may impact on competition.

**Regulation: Coal Mines (Open Cut) Regulation 1999**

<b>Part: 1 - PRELIMINARY</b>	<b>Division:</b>	<b>Clause(s): 1-5</b>
<b>Nature of Provisions:</b> Commencement date of Regulation; application of Regulation to open cut mines; definitions; duty of mine manager to ensure compliance with Regulation.		
These provisions are administrative and are not considered to impact on competition in the industry.		

<b>Part: 2 - OPERATIONS AND WORKING PRACTICES</b>	<b>Division: 1-4</b>	<b>Clause(s): 6-20</b>
<b>Nature of Provisions:</b> Mine manager must develop and implement an inspection system for all places in the mine; requirements for inspection system; functions and duties of examiners, including instructions to be given to workers; examinations and reports by managers and deputy managers in accordance with mine's inspection system; manager must notify certain incidents to the district inspector and district check inspector; prescribed matters for the making of transport rules by the manager.		
The requirement to implement an inspection system which provides for inspections every 8 hours, and the requirement that both manager and deputy manager must inspect the mines at regular intervals may hamper operations. Operations may also be affected by the presence of the examiner, whose duties may interfere with those of other officials. An alternative may be the installation of comprehensive monitoring equipment, however this would involve initial capital costs.		

<b>Part: 3 - SHOTFIRING AND EXPLOSIVES</b>	<b>Division:</b>	<b>Clause(s): 21-28</b>
<b>Nature of Provisions:</b> Definitions; appointment of shotfirers by manager in writing; development and implementation of shotfiring and explosives systems.		
No competitive impacts have been identified, other than an market entry barrier in respect of personnel that a shotfirer must be appointed by the manager, be qualified as an examiner and hold a permit from the Chief Inspector; shotfirer must be employed and paid by mine owner.		



**Regulation: Coal Mines (Open Cut) Regulation 1999**

<b>Part:</b> 4 - AIRBORNE DUST	<b>Division:</b>	<b>Clause(s):</b> 29-34
<p><b>Nature of Provisions:</b> Definitions; dust extraction plant must be provided at coal preparation plants or in mines where persons likely to be exposed to high concentration of dust; mine manager must make airborne dust rules; prescribed matters for the making of such rules; manager must appoint persons to collect and analyse dust samples; requirements for collection and analysis; action to be taken following analysis.</p>		
<p><b>Objective / Market Failure Addressed:</b> The potential failure to properly control dust levels at mines or at preparation plants, with serious health effects for workers.</p>		
<b>Competitive Effect On / Through:</b>	<b>Market Entry Barriers or Sanctions</b>	<b>Restriction on Competitive Behaviour</b>
<b>Personnel</b>	None identified.	None identified.
<b>Companies / Operations</b>	None identified.	Time and costs involved in making rules, appointing person(s) to collect, analyse and record samples, and complying with Australian standards.
<b>Industry Sector</b>	None identified.	None identified.
<b>Support Industries</b>	None identified.	None identified.
<b>Coal Mining Industry</b>	None identified.	Higher costs to industry through compliance.
<b>State</b>	None identified.	In Queensland forms part of safety and health management system and imposes costs on the underground sector.
<b>Country</b>	None identified.	There are similar provisions in USA and UK with similar compliance costs.

**Regulation: Coal Mines (Open Cut) Regulation 1999**

**Effect of Competitive Restriction:** Possible reduction in productivity and flexibility due to the time and costs involved in making rules, appointing person(s) to collect, analyse and record samples, and complying with Australian standards.

**Costs:** Compliance costs.

**Benefits:** Protection of workers from serious health effects.

**Alternative Options:** Rely on the OH&S Act, with or without supporting industry-specific standards or regulations; provide in the CMRA for “performance standards” - specifying goals to be achieved but allowing employers to decide how to meet those goals; provide in the CMRA for a duty on owners / managers to ensure safe operations in specified areas, with codes, standards and guidelines to be maintained separately from the legislation.

**Status With Respect to Trade Practices Act 1974 and Competition Code:** The effects of the provisions do not contravene Part IV of the Trade Practices Act.

**Part:** 5- EXEMPTIONS

**Division:**

**Clause(s):** 35

**Nature of Provisions:** A mine manager may apply to the Chief Inspector for an exemption from complying with a provision of the Regulation.

The obtaining of an exemption by a mine may give an advantage to that mine over others which may enhance that mine’s competitiveness. On the other hand, the exemption obtained may be subject to conditions which may impact on competition.

**Regulation: Coal Mines (Investigation) Regulation 1999**

<b>Part:</b>	<b>Division:</b>	<b>Clause(s):</b> 1-11
<p><b>Nature of Provisions:</b> Matters relating to the investigation of accidents and dangerous occurrences at coal mines, including the requirement for inspectors, mine safety officers and investigators to produce certificates of authority, the form of words to be used when exercising certain powers, the types of accidents and dangerous occurrences which must be reported to the Director-General, the participation in investigations by the district check inspector and a mining company representative, the Terms of Reference of a Board of Inquiry into an accident or dangerous occurrence or practice to be made publicly available, appointees to Boards of Inquiry must be appropriately qualified and not have a conflict of interest.</p>		
<p>The provisions of this regulation support the Mines Legislation Amendment (Mines Safety) Act which amended the Coal Mines Regulation Act 1982 with respect to the functions of inspectors, investigators, mine safety officers, the role of Boards of Inquiry etc. The provisions are administrative and are not considered to impact on competition in the industry.</p>		

## **APPENDIX E**

### **SETTING UP A SCHEME UNDER THE PROFESSIONAL STANDARDS ACT**

The Professional Standards Act 1994 allows occupational associations which require and are capable of self-regulation, to put in place standards for their members.

Under the Act an occupational association may:

- prepare a “scheme” limiting occupational liability (excluding liability for death, personal injury, fraud or dishonesty);
- compel its members to hold insurance;
- implement risk management strategies;
- handle complaints and impose discipline;
- set occupational standards and develop codes of ethics;
- implement compulsory training and qualification of its members.

The Act establishes the Professional Standards Council which supervises the preparation and application of schemes and assists in the improvement of occupational standards.

A scheme is prepared by the occupational association and submitted to the Council for approval. The Council approves schemes that adopt risk management strategies, complaints and discipline mechanisms, and insurance requirements that are likely to improve standards and protect consumers.

Prior to approval the Council must give public notice of the scheme and call for submissions. Once approved, the Minister authorises the publication of the scheme in the Gazette.

Groups which have developed schemes under the Act to date are engineers, surveyors, accountants and lawyers.