



THE HEALTH AND SAFETY IN EMPLOYMENT (MINING ADMINISTRATION) REGULATIONS 1996

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 11th day of August 1996

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 21 of the Health and Safety in Employment Act 1992, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Health and Safety in Employment (Mining Administration) Regulations 1996.

(2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Act” means the Health and Safety in Employment Act 1992:

“Acting manager” means the employee designated for the purpose referred to in regulation 7 (1) (b) of these regulations:

“Certificate of competence” means a certificate of one of the kinds referred to in regulation 16 of these regulations:

“Coal”—

(a) Means anthracite, bituminous coal, lignite, oil shale, peat, and sub-bituminous coal; and

(b) Includes every other substance worked or normally worked with coal:

“Current”, in relation to a certificate of competence, means a certificate of competence that has been issued under regulation 23 of these regulations and has not expired or been cancelled or suspended under regulation 26 of these regulations:

“Employee”,—

(a) In relation to an operation, means an employee of the operation; and

(b) In relation to a person who controls a place of work, means a person working in the place of work:

“Employer” includes a person who controls a place of work:

“Geothermal fluid” means all steam, water, and water vapour, and every mixture of all or any of them (which mixture may include gases), that has been heated within the earth by natural phenomena to a temperature of 70 degrees Celsius or more:

“Manager” means the person appointed for the purposes referred to in regulation 7 (1) (a) of these regulations:

“Metalliferous mine”—

(a) Means any place where any person works above or below ground for the purpose of—

(i) Extracting any mineral from the earth; or

(ii) Processing any mineral extracted from the earth at that place; and

(b) Includes any place where any person works below ground for the purpose of—

(i) Extracting any material, other than any coal or any mineral, from the earth; or

(ii) Processing any material, other than any coal or any mineral, extracted from the earth at that place; and

(c) Includes any place in which any mineral or material extracted or processed as described in paragraph (a) or paragraph (b) of this definition is—

(i) Crushed or screened; or

(ii) Extracted from any other mineral or material extracted or processed as described in paragraph (a) or paragraph (b) of this definition:

“Mineral”—

(a) Means any mineral, mineral substance, metal, or precious stone; but

(b) Does not include clay, coal, gravel, limestone, sand, or stone:

“Opencast coal mine”—

(a) Means any place where any person works above ground for the purpose of—

(i) Extracting any coal from the earth; or

(ii) Processing any coal extracted from the earth at that place; and

(b) Includes any place in which coal so extracted or processed is washed, crushed, or screened:

“Operation”—

(a) Includes any operation in which any activity is carried out pursuant to a prospecting licence or an exploration licence granted under the Mining Act 1971 or a coal prospecting licence granted under the Coal Mines Act 1979 or a prospecting permit or an exploration permit granted under the Crown Minerals Act 1991, being in each case a licence or permit in force; and

(b) Includes any operation in which any exploratory activity is carried out by machinery for the purpose of ascertaining whether a mine or a quarry may be worked; and

(c) Includes any operation in which a mine or a quarry is worked or a tunnel is made; and

(d) Includes any buildings, machinery, or works—

(i) At a place where a mine or quarry is worked or a tunnel is made; and

(ii) Used for the purposes of the working of the mine or quarry or the making of the tunnel; and

(e) Includes, in relation to any operation in which a mine or a quarry is worked, any activity carried out in relation to the

working of the mine or the quarry and any activity required to open or close the workings in the mine or the quarry; and

(f) Includes, in relation to any operation in which a tunnel is made, any activity carried out in relation to the making of the tunnel and any activity required to open or close the works relating to the making of the tunnel; but

(g) Does not include any operation in which occurs—

(i) Exploration, mining, or prospecting for geothermal fluids or minerals associated with geothermal fluids; or

(ii) Exploration, mining, or prospecting for petroleum; or

(iii) Any activity on a pipeline used for transporting any geothermal fluid, mineral, or petroleum outside the boundary of the operation:

“Petroleum” means—

(a) Any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or

(b) Any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or

(c) Any naturally occurring mixture of one or more hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and one or more of the following, namely hydrogen sulphide, mercaptan, nitrogen, helium, or carbon dioxide— and includes any petroleum as so defined that has been mined or otherwise recovered from its natural condition, or that has been so mined or otherwise recovered but that has been returned to a natural reservoir for storage purposes in the same or an adjacent area:

“Underground coal mine”—

(a) Means any place where any person works below ground for the purpose of—

(i) Extracting any coal from the earth; or

(ii) Processing any coal extracted from the earth at that place; and

(b) Includes any place in which coal so extracted or processed is washed, crushed, or screened.

3. Meaning of “mine”—In these regulations, the term “mine” means—

(a) A metalliferous mine; or

(b) An opencast coal mine; or

(c) An underground coal mine.

4. Meaning of “quarry”—(1) In these regulations, the term “quarry” means a quarry of a kind described in subclause (2) or subclause (3) of this regulation, and includes any place in which any material extracted or processed in a quarry is crushed or screened.

(2) A quarry is any place—

(a) Where any person works above ground for the purpose of—

(i) Extracting any material, other than any coal or any mineral, from the earth; or

(ii) Processing any material, other than any coal or any mineral, extracted from the earth at that place; and

(b) That has an area where any person works above ground for either of the purposes referred to in paragraph (a) of this subclause and that,—

(i) In the case of an area consisting of benches, exceeds 3.5 metres in height, measured from the top of the top bench to the bottom of the bottom bench; or

(ii) In any other case, exceeds 3.5 metres in height, measured from its highest to its lowest point,—

whether or not the material is extracted or processed for the purpose of commercial gain and whether or not the material is extracted or processed by the use of explosives.

(3) A quarry is any place—

(a) Where any person works above ground for the purpose of—

(i) Extracting any material, other than any coal or any mineral, from the earth; or

(ii) Processing any material, other than any coal or any mineral, extracted from the earth at that place; and

(b) That has an area where any person works above ground for either of the purposes referred to in paragraph (a) of this subclause and that,—

(i) In the case of an area consisting of benches, does not exceed 3.5 metres in height, measured from the top of the top bench to the bottom of the bottom bench; or

(ii) In any other case, does not exceed 3.5 metres in height, measured from its highest to its lowest point,—

where the material is extracted or processed either for the purpose of commercial gain or by the use of explosives or both for that purpose and by that means.

5. Meaning of “tunnel”—(1) Subject to subclause (2) of this regulation, in these regulations the term “tunnel” means any place where any person works,—

(a) With ground cover overhead, for the purpose of making an excavation intended to be greater than 15 metres long; or

(b) With or without ground cover overhead, for the purpose of making a shaft intended to be greater than 4.5 metres deep.

(2) In these regulations, the term “tunnel” does not include—

(a) Any tunnel within any metalliferous mine where any person works underground; or

(b) Any tunnel within any underground coal mine; or

(c) Any tunnel made in the course of—

(i) The building of a bridge or the approaches to a bridge; or

(ii) The preparation of a foundation for a building or a structure.

6. Relationship between Act and regulations—A person on whom a duty is imposed by these regulations in relation to a particular set of circumstances shall, on the occurrence of those circumstances, comply with that duty, notwithstanding that the Act may impose the same, a similar, or an additional duty on that person in relation to that set of circumstances.

PART I

DUTIES IN RELATION TO CERTIFICATES OF COMPETENCE

Manager and Acting Manager

7. Manager and acting manager—(1) Every employer shall take all practicable steps to ensure, in relation to every operation under the control of that employer,—

- (a) That a person is appointed to—
 - (i) Manage the operation; and
 - (ii) Supervise the health and safety aspects of the operation personally on every day on which any employee is at work; and
- (b) That, where, for any reason, the manager is unable to act as manager for any period, an employee is designated to act as manager for that period or for 10 weeks, whichever is shorter; and
- (c) That written notification of an appointment as manager or a designation as acting manager is given to the person appointed or the employee designated, as the case may require, and to the Secretary; and
- (d) That all employees are informed of the name of the manager and the acting manager; and
- (e) That all employees comply with all reasonable instructions given by—
 - (i) The manager; or
 - (ii) The acting manager when acting as the manager—
in order to ensure compliance with the Act and any applicable regulations made under the Act.

(2) No act done by an acting manager purporting in good faith to act as the manager shall in any proceedings be questioned on the ground that the occasion for that manager to act had not arisen or had ceased.

8. Manager required to hold certificate—(1) Subject to subclause (2) of this regulation, every employer shall take all practicable steps to ensure, in relation to every operation under the control of that employer,—

- (a) That the person appointed as the manager is the holder of the certificate of competence specified in regulation 10 or regulation 11 or regulation 12 or regulation 13 or regulation 14 of these regulations for the kind of operation to which the manager is appointed; and
 - (b) That the certificate of competence held by the manager is current.
- (2) Subclause (1) of this regulation does not apply to—
- (a) Any operation in which any activity is carried out pursuant to a prospecting licence or an exploration licence granted under the Mining Act 1971 or a coal prospecting licence granted under the Coal Mines Act 1979 or a prospecting permit or an exploration permit granted under the Crown Minerals Act 1991, being in each case a licence or permit in force; or
 - (b) Any operation in which any exploratory activity is carried out by machinery for the purpose of ascertaining whether a mine or a quarry may be worked.

9. Acting manager to be suitable person—Every employer shall take all practicable steps to ensure, in relation to every operation under the

control of that employer, that the acting manager is a suitable person to act in the place of the manager, whether or not the acting manager holds any certificate of competence.

10. Certificate of competence of manager of metalliferous mine—(1) Subject to subclauses (2) to (5) of this regulation, every manager appointed to an operation in which a metalliferous mine is worked shall be the holder of a certificate of competence as a first-class mine manager.

(2) A manager appointed to an operation in which a metalliferous mine is worked may, where the mine has underground workings and is a mine in which more than 3 people but not more than 10 people ordinarily work below ground at any one time, be the holder of a certificate of competence as an A-grade tunnel manager.

(3) A manager appointed to an operation in which a metalliferous mine is worked may, where the mine has underground workings and is a mine in which not more than 3 people ordinarily work below ground at any one time, be the holder of—

- (a) A certificate of competence as an A-grade tunnel manager; or
- (b) A certificate of competence as a B-grade tunnel manager.

(4) A manager appointed to an operation in which a metalliferous mine is worked may, where the mine has all the workings above ground and is a mine in which more than 4 people ordinarily work at any one time, be the holder of a certificate of competence as an A-grade quarry manager.

(5) A manager appointed to an operation in which a metalliferous mine is worked may, where the mine has all the workings above ground and is a mine in which not more than 4 people ordinarily work at any one time, be the holder of—

- (a) A certificate of competence as an A-grade quarry manager; or
- (b) A certificate of competence as a B-grade quarry manager.

11. Certificate of competence of manager of underground coal mine—(1) Subject to subclauses (2) and (3) of this regulation, every manager appointed to an operation in which an underground coal mine is worked shall be the holder of a certificate of competence as a first-class coal mine manager.

(2) A manager appointed to an operation in which an underground coal mine is worked may, where more than 8 people but not more than 15 people ordinarily work underground in that mine at any one time, be the holder of a certificate of competence as a coal mine interviewer.

(3) A manager appointed to an operation in which an underground coal mine is worked may, where not more than 8 people ordinarily work underground in that mine at any one time, be the holder of—

- (a) A certificate of competence as a coal mine interviewer; or
- (b) A certificate of competence as a coal mine deputy.

12. Certificate of competence of manager of opencast coal mine—(1) Subject to subclauses (2) and (3) of this regulation, a manager appointed to an operation in which an opencast coal mine is worked shall be the holder of a certificate of competence as an A-grade opencast coal mine manager.

(2) A manager appointed to an operation in which an opencast coal mine is worked may, where the mine is one in which explosives are used and in which not more than 4 people ordinarily work at any one time, be

the holder of a certificate of competence as a B-grade opencast coal mine manager.

(3) A manager appointed to an operation in which an opencast coal mine is worked may, where the mine is one in which no explosives are used, be the holder of—

- (a) A certificate of competence as a B-grade opencast coal mine manager; or
- (b) A certificate of competence as a manager to manage that opencast coal mine, being the mine specified in the certificate.

13. Certificate of competence of manager of quarry—(1) Subject to subclauses (2) and (3) of this regulation, every manager appointed to an operation in which a quarry is worked shall be the holder of a certificate of competence as an A-grade quarry manager.

(2) A manager appointed to an operation in which a quarry is worked may, where the quarry is one in which explosives are used and in which not more than 4 people ordinarily work at any one time, be the holder of a certificate of competence as a B-grade quarry manager.

(3) A manager appointed to an operation in which a quarry is worked may, where the quarry is one in which no explosives are used, be the holder of—

- (a) A certificate of competence as a B-grade quarry manager; or
- (b) A certificate of competence as a manager to manage that quarry, being the quarry specified in the certificate.

14. Certificate of competence of manager of tunnel—(1) Subject to subclause (2) of this regulation, every manager appointed to an operation in which a tunnel is made shall be the holder of a certificate of competence as an A-grade tunnel manager.

(2) A manager appointed to an operation in which a tunnel is made may, where not more than 2 people ordinarily work at the face of the tunnel at any one time or where any cross-sectional dimension does not exceed 2.5 metres, be the holder of a certificate of competence as a B-grade tunnel manager.

Other Employees

15. Other employees required to hold certificates—Every employer shall take all practicable steps to ensure, in relation to every operation under the control of that employer, that every employee who is required to carry out the duties normally associated with the position of a coal mine deputy, a coal mine underviewer, a gas tester, a mine shot-firer, a mine surveyor, a quarry shot-firer, a tunnel shot-firer, or a winding engine driver holds a current certificate of competence for that position issued under regulation 23 of these regulations.

PART II

CERTIFICATES OF COMPETENCE

16. Certificates of competence—The following kinds of certificates of competence may be issued under regulation 23 of these regulations:

- (a) A certificate of competence as a first-class mine manager;
- (b) A certificate of competence as a first-class coal mine manager;
- (c) A certificate of competence as an A-grade opencast coal mine manager:

- (d) A certificate of competence as a B-grade opencast coal mine manager:
- (e) A certificate of competence as an A-grade quarry manager:
- (f) A certificate of competence as a B-grade quarry manager:
- (g) A certificate of competence as an A-grade tunnel manager:
- (h) A certificate of competence as a B-grade tunnel manager:
- (i) A certificate of competence as a manager to manage the opencast coal mine specified in the certificate:
- (j) A certificate of competence as a manager to manage the quarry specified in the certificate:
- (k) A certificate of competence as a coal mine deputy:
- (l) A certificate of competence as a coal mine underviewer:
- (m) A certificate of competence as a gas tester:
- (n) A certificate of competence as a mine shot-firer:
- (o) A certificate of competence as a mine surveyor:
- (p) A certificate of competence as a quarry shot-firer:
- (q) A certificate of competence as a tunnel shot-firer:
- (r) A certificate of competence as a winding engine driver.

Application, Issue, Renewal, Cancellation, and Suspension

17. Secretary may recognise organisations—(1) The Secretary may, on being satisfied that it is appropriate to do so, recognise any organisation as an organisation that may issue certificates of competence of all kinds or of a particular kind.

(2) The Secretary may, on being satisfied that it is appropriate to do so, withdraw recognition, in relation to certificates of competence of all kinds or of a particular kind, from any organisation recognised under this regulation.

(3) Where the Secretary has recognised any organisation, or withdrawn recognition from any organisation, under this regulation, the Secretary shall publish a notice to that effect in the *Gazette*.

18. Application for certificate of competence to be made to chief executive or Secretary—(1) An application for a certificate of competence shall be made—

- (a) To the chief executive of an organisation that has been recognised by the Secretary under regulation 17 of these regulations as an organisation that may issue certificates of the kind to which the application relates, by lodging the application at the head office of the organisation; or
- (b) If no such organisation has been recognised, to the Secretary, by lodging the application at any office—
 - (i) That deals with occupational safety and health matters; and
 - (ii) That is an office of the Department.

(2) Every application made under subclause (1) of this regulation for which a fee is prescribed in the First Schedule to these regulations shall be accompanied by the fee so prescribed.

19. Application to contain evidence—An application for a certificate of competence shall contain evidence of the matters referred to in regulation 20 (1) of these regulations.

20. Requirements of applicants—(1) An applicant for a certificate of competence shall—

- (a) Have the qualifications and experience required by the Secretary of a holder of that certificate of competence; and
- (b) Be a fit and proper person to hold that certificate of competence.

(2) The Secretary shall from time to time publish a notice in the *Gazette* stating—

- (a) The qualifications and experience that the Secretary requires the holder of a certificate of competence to have; and
- (b) The means by which an applicant may establish that he or she has the required qualifications and experience, which means may include the production of evidence that the applicant has passed any specified examination; and
- (c) The means by which an applicant may establish that he or she is a fit and proper person to hold any certificate of competence, which means may include the production of any specified evidence.

(3) A notice published in the *Gazette* pursuant to subclause (2) of this regulation may relate to certificates of competence of all kinds or of a particular kind.

21. Investigations by chief executive or Secretary—(1) For the purpose of investigating whether an applicant for a certificate of competence is a person to whom regulation 20 (1) of these regulations applies, the chief executive or the Secretary, as the case may be, may—

- (a) Request the applicant to supply information on relevant matters; and
- (b) Request any person who the chief executive or the Secretary believes is able to provide relevant information or provide information on relevant matters.

(2) A request under subclause (1) of this regulation—

- (a) Shall specify those matters on which the chief executive or the Secretary, as the case may be, seeks information; and
- (b) May be made from time to time.

(3) The applicant shall supply information on such matters as may be specified in a request made under subclause (1) (a) of this regulation.

(4) Any person to whom a request is made under subclause (1) (b) of this regulation shall supply information on such matters as may be specified in the request, if the person holds that information or can reasonably be expected to obtain it.

(5) Every person shall have the same privileges in relation to the giving of information to the chief executive or the Secretary, as the case may be, as witnesses have in any court.

(6) No person shall be liable to prosecution for any offence against any enactment by reason of that person's compliance with any requirements of the chief executive or the Secretary, as the case may be, under this regulation.

22. Use of information—For the purpose of determining whether an applicant is a person to whom regulation 20 (1) of these regulations applies, the chief executive or the Secretary, as the case may be, may take into account any information received in response to the exercise of the powers in regulation 21 of these regulations.

23. Chief executive or Secretary to issue certificate of competence—(1) A chief executive or the Secretary, as the case may require, to whom an application for a certificate of competence is made shall issue the certificate of competence sought in the application, if he or she is satisfied—

(a) That the application was made in accordance with regulations 18 and 19 of these regulations; and

(b) That the applicant is a person to whom regulation 20 (1) of these regulations applies.

(2) Where a chief executive or the Secretary, as the case may require, refuses to issue any certificate of competence, he or she shall supply to the applicant a statement of the reasons for the refusal.

24. Secretary to determine duration—(1) The Secretary shall from time to time determine the period for which each kind of certificate of competence, issued after a date to be determined by the Secretary, shall remain in force.

(2) The Secretary may determine different periods for different kinds of certificates of competence.

(3) A certificate of competence expires at the close of the day that concludes the period that applies to certificates of competence of that kind.

(4) Every certificate of competence shall show on its face the date on which it expires.

25. Renewal of certificate of competence—(1) An application for the renewal of a certificate of competence shall—

(a) Be made before the day on which the certificate expires; and

(b) Be accompanied by the fee, if any, prescribed in the First Schedule to these regulations; and

(c) Be made—

(i) Where the certificate was issued by an organisation recognised under regulation 17 of these regulations, to the chief executive of that organisation; or

(ii) Where the Secretary has withdrawn recognition from the organisation that issued the certificate or where the organisation has ceased to exist, to the chief executive of any organisation recognised under regulation 17 of these regulations whose functions are substantially similar to those of the organisation that issued the certificate or to the Secretary; or

(iii) Where the certificate was issued by the Secretary, to the Secretary.

(2) Where the Secretary has, after the date on which a certificate of competence was issued, recognised an organisation under regulation 17 of these regulations as an organisation that may issue certificates of competence, the Secretary shall transfer to the organisation any application for a renewal of that certificate of competence that that organisation may issue.

(3) Where an application is made in accordance with this regulation, the certificate of competence to which the application relates shall be renewed, unless the person to whom the application is made or transferred cancels or suspends the certificate under regulation 26 of these regulations.

(4) A certificate of competence may be renewed before or after the day on which the certificate expires, but in each case the renewed certificate shall be in force from the commencement of the day following that day.

(5) Subclauses (3) and (4) of regulation 24 of these regulations apply to a certificate of competence renewed under this regulation.

26. Cancellation or suspension of certificate of competence—

(1) The person who issued a certificate of competence shall cancel the certificate if he or she is satisfied on reasonable grounds that the holder has died.

(2) The person who issued a certificate of competence shall cancel the certificate if, after giving the holder an opportunity to be heard, he or she is satisfied on reasonable grounds—

(a) That the certificate was issued in error; or

(b) That the holder's application for the certificate contained any false information or evidence; or

(c) That the holder either never has been or is no longer a person to whom regulation 20 (1) of these regulations applies.

(3) The person who issued a certificate of competence shall cancel the certificate or suspend the certificate for such period as he or she thinks fit if, after giving the holder an opportunity to be heard, he or she is satisfied on reasonable grounds—

(a) That the holder has been so negligent in carrying out any task that the holder of the certificate could reasonably be expected to perform to a reasonable standard that the life of any person has been or could have been endangered; or

(b) That the holder has shown himself or herself unfit to be the holder of the certificate by the improper manner in which he or she has carried out any task that the holder of the certificate could reasonably be expected to perform in a proper manner.

(4) In this regulation, the term "person who issued a certificate of competence" includes a person to whom an application under regulation 25 of these regulations is made or transferred.

27. Replacement of certificate of competence—(1) An application for a duplicate of a certificate of competence shall—

(a) Be accompanied by the fee, if any, prescribed in the First Schedule to these regulations; and

(b) Be made—

(i) Where the certificate was issued by an organisation recognised under regulation 17 of these regulations, to the chief executive of that organisation; or

(ii) Where the Secretary has withdrawn recognition from the organisation that issued the certificate or where the organisation has ceased to exist, to the chief executive of any organisation recognised under regulation 17 of these regulations whose functions are substantially similar to those of the organisation that issued the certificate or to the Secretary; or

(iii) Where the certificate was issued by the Secretary, to the Secretary.

(2) Where the Secretary has, after the date on which a certificate of competence was issued, recognised an organisation under regulation 17 of these regulations as an organisation that may issue certificates of

competence, the Secretary shall transfer to the chief executive of that organisation any application for a duplicate of that certificate of competence that that organisation may issue.

(3) Where the person to whom an application is made or transferred under this regulation is satisfied that a certificate of competence has been lost or destroyed, that person shall issue a duplicate of that certificate.

28. Register—(1) Every organisation recognised under regulation 17 of these regulations and the Department shall keep a register of the individuals to whom the chief executive or the Secretary, as the case may be, has issued a certificate of competence.

(2) Every register kept under subclause (1) of this regulation shall show—

- (a) The full name of the holder;
- (b) The kind of certificate the holder holds;
- (c) The date on which the certificate expires;
- (d) In relation to a certificate that has been suspended, the date on which the suspension took effect and the date on which the suspension ends;
- (e) In relation to a certificate that has been cancelled, the date of cancellation.

29. Appeal to District Court—(1) An appeal may be made to a District Court by—

- (a) An applicant who is dissatisfied with a refusal to issue a certificate of competence under regulation 23 of these regulations;
- (b) A holder of a certificate of competence who is dissatisfied with a refusal to renew the certificate of competence under regulation 25 of these regulations;
- (c) A holder of a certificate of competence who is dissatisfied with the cancellation or suspension of the certificate of competence under regulation 26 of these regulations;
- (d) A holder of a certificate of competence who is dissatisfied with a refusal to issue a duplicate of that certificate under regulation 27 of these regulations.

(2) Part IX of the District Courts Rules 1992* applies to an appeal brought under subclause (1) of this regulation.

(3) The decision of the District Court on any appeal brought under subclause (1) of this regulation shall be final.

30. Fees inclusive of goods and services tax—The fees prescribed by the First Schedule to these regulations are inclusive of goods and services tax under the Goods and Services Tax Act 1985.

31. Transitional provisions relating to certificate and permits—A certificate or permit listed in column 1 of the Second Schedule to these regulations and in force on the 31st day of March 1993 shall be deemed—

- (a) To be the certificate listed opposite to it in column 2 of the schedule;
and
- (b) To have been issued under regulation 23 of these regulations.

PART III

OFFENCES

32. Offences—(1) The provisions to which this regulation applies are regulations 7 (1), 8, 9, and 15 of these regulations.

(2) The provisions referred to in subclause (1) of this regulation are hereby declared to be provisions to which section 50 of the Act (which provides that every person who fails to comply with a provision to which that section is declared to apply commits an offence, and is liable on summary conviction to a fine) applies.

PART IV

CONSEQUENTIAL AMENDMENTS

33. Consequential amendments—(1) Regulation 2 of the Health and Safety in Employment Regulations 1995* is hereby consequentially amended—

(a) By omitting the definition of the term “mine”, and substituting the following definition:

“‘Mine’ has the same meaning as it has in the Health and Safety in Employment (Mining Administration) Regulations 1996.”

(b) By omitting the definition of the term “quarry”, and substituting the following definition:

“‘Quarry’ has the same meaning as it has in the Health and Safety in Employment (Mining Administration) Regulations 1996.”

(c) By omitting the definition of the term “tunnel”, and substituting the following definition:

“‘Tunnel’ has the same meaning as it has in the Health and Safety in Employment (Mining Administration) Regulations 1996.”

(2) Regulation 43 (2) of the Health and Safety in Employment Regulations 1995 is hereby consequentially amended by adding the following paragraph:

“(e) In relation to a certificate that has been cancelled, the date of cancellation.”

SCHEDULES

Regs. 18 (2), 25 (1), 27 (1), 30 **FIRST SCHEDULE**

**FEES FOR ISSUE, RENEWAL, AND REPLACEMENT OF CERTIFICATES OF
COMPETENCE**

| Kind of Certificate | Issue | Renewal or Replacement |
|---|---------|---------------------------|
| First-class mine manager | \$25.00 | \$15.00 |
| First-class coal mine manager | \$25.00 | \$15.00 |
| A-grade opencast coal mine manager | \$25.00 | \$15.00 |
| A-grade quarry manager | \$25.00 | \$15.00 |
| A-grade tunnel manager | \$25.00 | \$15.00 |
| Mine surveyor | \$25.00 | \$15.00 |
| Coal mine underviewer | \$25.00 | \$15.00 |
| B-grade opencast coal mine manager | \$15.00 | \$10.00 |
| B-grade quarry manager | \$15.00 | \$10.00 |
| B-grade tunnel manager | \$15.00 | \$10.00 |
| Manager of opencast coal mine specified in the certificate | \$15.00 | \$10.00 |
| Manager of quarry specified in the certificate | \$15.00 | \$10.00 |
| Coal mine deputy | \$15.00 | \$10.00 |
| Gas tester | \$15.00 | \$10.00 |
| Mine shot-firer, quarry shot-firer, tunnel shot-firer | \$15.00 | \$10.00 |
| Winding engine driver | \$15.00 | \$10.00 |

SECOND SCHEDULE

Reg. 31

TRANSITIONAL PROVISIONS RELATING TO CERTIFICATES AND PERMITS

| Column 1 | Column 2 |
|--|--|
| First-class mine manager's certificate granted under the Mining Act 1971 | Certificate of competence as a first-class mine manager |
| First-class certificate of competency as an underground mine manager granted under the Coal Mines Act 1979 | Certificate of competence as a first-class coal mine manager |
| A-grade certificate of competency as an opencast mine manager granted under the Coal Mines Act 1979 | Certificate of competence as an A-grade opencast coal mine manager |
| B-grade certificate of competency as an opencast mine manager granted under the Coal Mines Act 1979 | Certificate of competence as a B-grade opencast coal mine manager |
| A-grade quarry manager's surface certificate granted under the Quarries and Tunnels Act 1982 | Certificate of competence as an A-grade quarry manager |
| B-grade quarry manager's surface certificate granted under the Quarries and Tunnels Act 1982 | Certificate of competence as a B-grade quarry manager |
| A-grade tunnel manager's certificate granted under the Quarries and Tunnels Act 1982 | Certificate of competence as an A-grade tunnel manager |
| B-grade tunnel manager's certificate granted under the Quarries and Tunnels Act 1982 | Certificate of competence as a B-grade tunnel manager |
| Permit from the Inspector in relation to an opencast coal mine where the only coal worked is peat, granted under the Coal Mines Act 1979 | Certificate of competence as a manager to manage the opencast coal mine specified in the certificate |
| Quarry manager's surface permit granted under the Quarries and Tunnels Act 1982 | Certificate of competence as a manager to manage the quarry specified in the certificate |
| Certificate of competency as a fireman deputy granted under the Coal Mines Act 1979 | Certificate of competence as a coal mine deputy |
| Certificate of competency as an underviewer granted under the Coal Mines Act 1979 | Certificate of competence as a coal mine underviewer |
| Gas testing certificate issued or endorsed under the Coal Mines Act 1979 | Certificate of competence as a gas tester |
| Mine shot-firer's certificate issued under the Mining (Safety) Regulations 1973 | Certificate of competence as a mine shot-firer |

SECOND SCHEDULE—*continued*TRANSITIONAL PROVISIONS RELATING TO CERTIFICATES AND PERMITS—
continued

| Column 1 | Column 2 |
|--|--|
| Certificate of competency as a mine surveyor granted under the Coal Mines Act 1979 | Certificate of competence as a mine surveyor |
| Quarry shot-firer's certificate granted under the Quarries and Tunnels Act 1982 | Certificate of competence as a quarry shot-firer |
| Tunnel shot-firer's certificate granted under the Quarries and Tunnels Act 1982 | Certificate of competence as a tunnel shot-firer |
| Certificate of competency as a winding engine driver deemed to be granted under the Mining Act 1971 or the Coal Mines Act 1979 | Certificate of competence as a winding engine driver |

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations come into force 28 days after the date of their notification in the *Gazette*.

Regulation 7 imposes a duty on employers and persons in control of places of work, in relation to operations in mines, quarries, and tunnels, to appoint managers to manage the operations and to supervise personally the health and safety aspects of the operations.

Regulation 8 imposes a duty on employers and persons in control of places of work, in relation to operations in mines, quarries, and tunnels (other than operations involving only exploratory activity), to appoint managers who hold certificates of competence. *Regulations 10 to 14* specify the certificates of competence that such managers must have.

Under *regulation 15*, employers and persons in control of places of work have a duty, in relation to operations in mines, quarries, and tunnels, to ensure that persons doing jobs for which a certificate of competence is available have a current certificate.

Regulations 16 to 31 make provision for certificates of competence for certain jobs in mines, quarries, and tunnels.

Regulation 32 provides that a failure to observe any of the duties set out in these regulations constitutes an offence.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 15 August 1996.

These regulations are administered in the Department of Labour.