

# NATIONAL MINE SAFETY TASKFORCE

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## SUMMARY

A meeting of Australian and New Zealand Minerals and Energy Council (ANZMEC) Ministers in August of 1998 sanctioned a new joint industry government initiative to establish a national strategic framework for improving safety and health performance in the mining industry.

To give effect to the initiative, a national government taskforce was subsequently established to identify and overcome the administrative and legislative block to improve industry safety performance. The taskforce has prepared a discussion document covering roles of government, employers, employees; a best practice legislative model; mine site health and safety performance monitoring and measurement.

Part of the strategy for development of the national strategic framework involves the solicitation of stakeholder views on a range of key issues and options for improving mining industry safety and health performance across Australia and New Zealand.

The discussion document serves as the basis for tripartite discussion at a regional level. Views and opinions established in consultative forums will be consolidated and circulated before being considered by the ANZMEC Ministerial Council as a set of national principles and standards to be adopted by each jurisdiction.

## INTRODUCTION

A key issue for the mining industry has always been the safety of persons working in the industry. This has historically been a major concern for the stakeholders, governments, industry, unions and each employee. While there has been a significant improvement in the Australian mineral industry in overall safety as measured by the Lost Time Injury Frequency Rate (LTIFR) over the last ten years, falling from approximately 80 to about 20 lost time injuries per million hours worked<sup>1</sup>,

<sup>1</sup> Research Paper, Ministerial Review into Mine Safety, NSW Minerals Council (Feb 97)

the average 10 year fatality rate of 0.15 deaths per million hours worked remains unacceptably high. The overall performance today is totally unacceptable when compared internationally.

International benchmarking indicates the Australian injury rate for coal mining is about twice that of the USA and metalliferous mining is about on par with that of the USA.

World's best practice for industries outside the mining sectors sees performance levels in the region of LTIFR levels of 1 and 2. Achievement of these levels must be the goal of all mining operations in Australia.

Over the last decade, the Australian and New Zealand Minerals and Energy Council (ANZMEC) has been actively engaged with the minerals industry in safety related issues via the Conference of Chief Inspectors of Mines. This work, up to 1997, tended to focus at the detailed level not the strategic level.

The Council consists of the Commonwealth Minister for Resources and Energy, State and Territory Ministers with responsibility for minerals and energy and the New Zealand Minister for Energy. The Papuan New Guinean Minister for Mines and Petroleum has observer status.

ANZMEC Ministers meet annually, and ongoing issues are dealt with out-of-session. The Ministerial Council is supported by a Standing Committee of Officials (SCO) which meets regularly during the year. The Chair of the Ministerial Council and the SCO Chair rotate annually among member jurisdictions. The Secretariat is provided by the Commonwealth. A number of taskforces have been established to deal with specific issues.

At a meeting between representatives of the Standing Committee of Officials (SCO-ANZMEC) and the Minerals Council of Australia (MCA) in 1997, the MCA indicated a strong desire to work with ANZMEC on the adoption of a consistent best practice approach to safety management across jurisdictions. There are significant benefits in having a consistent approach across Australia as many companies work across jurisdictions, employees move between companies and jurisdictions and governments can gain efficiencies by sharing in the development of programs. There are however many issues

which make achieving such a goal very challenging.

Among these issues are:

- jurisdictions with different combinations of mining sectors at different stages of development;
- different legislation and arrangements within government for administration of mine safety;
- different management and employee culture in different industry sectors;
- complex union representation and attitude issues across sectors and jurisdictions; and
- wide variations in company size and management resources.

The outcome of this meeting was a recommendation put to the ANZMEC Ministers' Meeting in August 1997 that ANZMEC should investigate in conjunction with industry and other stakeholders the feasibility and benefits of developing a strategic safety management framework to guide the evolution of mining safety management across Australia.

## **ANZMEC**

Ministers at the meeting in August 1997 agreed with the recommendation and decided that a working party would be established under the leadership of Victoria to develop a framework that would not disturb existing jurisdictional arrangements. The first meeting of the working party would be to develop its terms of reference and processes for forwarding of issues to be agreed to by the ANZMEC standing committee of officials.

The MCA through Executive Director Dick Wells at the Queensland Mining Industry Health and Safety Conference in September 1998 stated the industry needed to rid itself of the mentality that accidents were inevitable. He called for a change towards a more outward looking, pro-active and integrated safety culture which anticipated hazards and risks and dealt with them before they became a problem.

## **MINE SAFETY TASKFORCE**

Nominations for the Mine Safety Taskforce were called from the Commonwealth, Queensland, New South Wales, Western Australia, South Australia, New Zealand, Northern Territory, Victoria and Tasmania. New Guinea (with observer status to ANZMEC) was not able to participate in Working Group meetings, but would be kept

informed of progress. Committee membership is shown in *Appendix A*.

The first meeting of the Mine Safety Taskforce took place in Melbourne on February 13 1998. The agenda for the meeting was:

1. To oversee the regulatory approaches and future direction of mining safety legislation in each State and the Northern Territory.
2. To discuss and reach agreement on:
  - the nature of the mining safety challenge
  - participation of other stakeholders
  - deliverable objectives for the taskforce
  - processes to achieve objectives
  - broad timelines
3. To discuss and reach agreement on:
  - first draft Terms of Reference
  - make up and timing of future meetings.

The outcome of the meeting was to recommend setting up three working groups to prepare discussion papers on:

- Role of Government;
- Legislation; and
- Performance Monitoring and Performance Measurement.

Subsequent meetings developed the Terms of Reference for these three tasks (*Appendix B*), with responsibility for developing the three discussion papers being allocated to Western Australia for Role of Government, New South Wales for Legislation and Queensland for Performance Monitoring and Performance Measurement. The preparation of these papers was to be undertaken with consultation with the other States and the Northern Territory. Key steps in the preparation of the documents were:

1. Agree to concept and approach embodied in draft paper – 16 July.
2. Develop support of key stakeholders within each State/NT.
3. Develop support of MCA
4. Complete paper for presentation to ANZMEC 27 August 1998.

The recommendation for the preparation of the final papers and the Terms of Reference were submitted to the ANZMEC SCO meeting on 16 July 1998 and subsequently presented to the ANZMEC Ministerial Meeting. Ministers agreed that the Mine Safety Taskforce should

progress the development of a National Strategic Framework as outlined in their proposal.

It was after these meetings that work began in earnest on the preparation of the three discussion papers:

- roles and responsibilities for the employers, employees and government with regard to mine health and safety
- legislation for mine safety
- performance monitoring and performance measures

A draft timetable was prepared for the development of the papers, the final consultation process with stakeholders and presentation to SCO in Perth in June 1999, followed by the final presentation to ANZMEC Ministers' in Kalgoorlie in July 1999.

This draft timetable has proved to be extremely ambitious in the light of critical domestic issues that arose in each State preparing the draft papers. The consolidation of the three papers into one concise discussion paper has also proven very time consuming.

### **NATIONAL MINE SAFETY TASKFORCE – CONSULTATIVE DOCUMENT**

The final document is presented as a higher level paper combining the key issues of the three draft papers into one more easily read discussion document covering:

- Preamble:

Background to the setting up of the taskforce and the objective

- Overview:

National statistics and trends of accidents/fatals. The need for a co-operative approach. Roles and responsibilities to be defined if performance is to improve. The 1972 Roben's Report – points out the need for safety awareness from the boardroom to the working face involving all participants. There is no simple panacea and there are no simple shortcuts.

- Common Vision:

The challenge for industry, government and employees and their respective representative bodies is to develop a common vision on the direction of

legislative and administrative regimes as the basic driver for encouraging a sustained safety improvement effort within all mining operations in Australia and New Zealand.

- Structure of Safety Legislation:

Safety legislation applying to mine sites in Australia and New Zealand broadly follows the model proposed by the Roben's Committee. The recommended legislative package now comprises principal Act, subordinate legislation (regulations) and Codes of Practice (Guidelines). A summary of current legislation applying in each State is shown in *Appendix C*.

In recognition of the systems approach to managing safety and controlling risk, some jurisdictions (eg. Qld, WA, Vic and others) have or are developing regulations that require or encourage the development of safety management systems and safety management plans.

- Statutory Positions:

The Duty of Care approach as opposed to statutory positions and statutory certification.

- Approvals and Authorisations:

A policy on approvals is needed. It is suggested that approvals shift the onus of safety from those in daily control to the regulator.

- Workplace Consultation:

Requirements differ across jurisdictions. It is generally agreed that strong workplace consultation and participation mechanisms at the workplace are essential for the effective control of workplace hazards.

- Legislative Drafting Practice:

There are no common conventions on drafting styles, practice or terminology across jurisdictions.

- Options for Gaining Legislative Consistency:

Through the development of National Standards, mine safety and health plans, compliance and enforcement policy.

- Regional and National Consultation:

Government has a primary role in ensuring adequate industry consultation takes place

at a regional level on a range of issues. Methods of capturing these issues are through State Chambers of Mines, Minerals Council of Australia and formal tripartite bodies.

- Awareness Raising and Industry Education:

This involves developing campaigns and programs to improve industry stakeholders understanding of legislative obligations and the causes of and measures that can be taken to prevent accidents and incidents.

- Minesite Safety and Health Performance Monitoring and Measurement:

Each mining jurisdiction has developed data collection arrangements that are similar in nature however uniformity in all areas has not been achieved, making it difficult to derive accurate information on safety performance. Data collected by the State and Northern Territory jurisdictions is collated by the Minerals Council of Australia on a national basis for national comparison. Occupational Health and Safety (OHS) jurisdictions have also experienced similar issues, however they have now agreed to develop a system of comparative performance monitoring and have now established performance indicators ranging from compensated injuries through to return to work rates.

- Performance Indicators:

Traditional indicators tend to be reactive such as frequency rates for lost time injuries and fatalities. Proactive indicators reflect new accident prevention approaches eg attitude surveys, evidence of Safety Management Systems and hazard management plans.

- National Performance Measures:

What types of measures should be developed? Are attitude surveys desirable? Who should administer them? Is a standardised audit test desirable and who should develop it?

All these questions need answering. Should a working party be established if we are to progress?

## **WHERE TO FROM HERE?**

At the time of writing the paper, the National Mine Safety Taskforce consultative document is in its final stage of drafting. It will then be submitted to the Standing Committee of Officials and to the ANZMEC Ministers for approval. The program then will be for each State and the Northern Territory to begin the consultation phase. The results of the consultation will be summarised and the final report will be prepared for submission to SCO and the ANZMEC Ministers in June 2000 for approval and consideration for implementation by each State and the Northern Territory.

## **CONCLUSION**

There is no doubt that significant benefit can accrue from this consultation process in assisting to more closely align Australian mining legislation with best practice. The outcome will only be achieved with the co-operation, the commitment and determination of the stakeholders to commence the process of change and follow it through to conclusion.

## **ACKNOWLEDGMENTS**

The development of the discussion document by members of the National Mine Safety Taskforce.

## **REFERENCES**

Minerals Council of Safety Australia Survey Report for 1997/98

**APPENDIX A**

**NATIONAL MINE SAFETY TASKFORCE**

<b>NAME</b>	<b>ORGANISATION</b>	<b>STATE</b>
David Lea (Chairman)	Executive Director Minerals and Petroleum Dept. of Natural Resources and Environment	Victoria
Robert King	Manager - Minerals & Petroleum Regulation Dept of Natural Resources and Environment	Victoria
Glen Jordan	Managing Director – Systec Pty Ltd	Victoria
Robert Martin	Assistant Director – Operations Northern Territory - Dept of Mines and Energy	Northern Territory
Colin Brown	Director – Coal Development Section – Energy Minerals Branch	Commonwealth Government
Roger Matthews	Manager – Chief Inspector of Mines – Primary Industries and Resources	South Australia
Peter Minahan	Chief Inspector of Mines Dept of Mines and Energy	Queensland
Roger Billingham	Deputy Chief Inspector of Mines (Metalliferous) – Dept of Mines and Energy	Queensland
Graham Terrey	Chief Inspector of Mines – Dept of Mineral Resources	New South Wales
Bruce McKenzie	Chief Inspector of Coal Mines Dept of Mineral Resources	New South Wales
Jim Torlach	State Mining Engineer Dept of Minerals and Energy	Western Australia

## APPENDIX B

### TERMS OF REFERENCE

#### **Task 1 - Roles and Responsibilities of Employers, Employees and Government**

##### **Key Deliverable**

To achieve agreement between all stakeholders on a strategic framework which clearly identifies the roles and responsibilities of employers, employees, and government in maintaining the best practicably attainable standards in health and safety in mining, by a process of continuous improvement.

The framework will be used as a template to ensure consistent, effective and efficient performance in achieving minesite health and safety goals.

##### **Specific Points**

- identify the mechanisms and processes which are critical in achieving minesite health and safety goals.
- determine the primary responsibilities of the respective parties, (at both collective and individual minesite levels), for carrying out the necessary functions and putting processes in place to achieve the identified goals, at industry and minesite levels.
- identify where and how responsibilities are shared, at both collective and minesite levels, and articulate clearly the mechanisms to determine accountability for each party in discharging those shared responsibilities.
- prepare a publication which clearly outlines the purpose of the strategic framework and describes how it may be effectively implemented through the industry.
- develop a communication strategy which will ensure that all persons involved are aware of their personal accountability in the maintenance of a high standard of health and safety performance at each minesite.

#### **Task 2 - Principles of a Flexible Best Practice Minesite Health and Safety Legislative Model**

##### **KEY DELIVERABLE**

To develop a set of principles that describe a flexible best practice minesite health and safety legislative model capable of being used by each jurisdiction within the constraints of existing legislative frameworks.

The model will be used as a guide for jurisdictions in the on-going evolution of their particular legislation.

##### **SPECIFIC POINTS**

- A set of overriding general principles will be developed, including, but not limited to;
  - ⇒ Roles and responsibilities of relevant stakeholders
  - ⇒ Risk assessment
  - ⇒ Safety management systems
  - ⇒ Statutory mine officials
  - ⇒ Role of Inspectorate
  - ⇒ Roles and definitions of Codes, Standards and Guidelines
- Specific consideration needs to be given to the evolving nature of minesite operational practices and the differing capabilities of companies involved in large scale and small scale mining
- The model should facilitate the effective sharing of resource material between jurisdictions.

### **Task 3 - Minesite Health and Safety Performance Monitoring and Measurement**

#### **KEY DELIVERABLE**

To agree amongst all stakeholders on a best practice strategic framework for measuring, monitoring and communicating the state of health and safety at individual minesites and in the industry in general. This framework will be used to establish and measure the consistency of effective and efficient minesite health and safety goals.

#### **SPECIFIC POINTS**

- develop, with stakeholder participation, a communications strategy, which ensures that industry is aware of the proposals for a performance monitoring and measurement program
- identify issues, which are critical to safe and healthy mining operations.
- identify means of measuring outcomes related to those issues objectively.
- assess ongoing means for measuring the outcomes on an individual mine basis and means of collecting the relevant data.
- identify responsibilities for collecting, collating, analysing and disseminating the data on an industry wide basis.
- establish benchmarks which provide a basis for development and implementation of continuous improvement programs.
- prepare a publication, which clearly articulates the agreed framework to stakeholders.

## APPENDIX C

### **LEGISLATION APPLYING TO MINE SITES IN NEW ZEALAND**

On 1 April 1992 the New Zealand government introduced the Health and Safety in Employment (HSE) Act, a move to functional legislation covering the regulation of health and safety in all work places throughout the country, including the extractive industries comprising coal, minerals, quarries, tunnels and petroleum and geothermal operations. All previous, sectorial, legislation, relating to the extractive industries, was repealed.

The Act focuses on the prevention of harm arising from work activities and provides comprehensive coverage of all places of work. It binds the Crown as well as private sector employers. It seeks to address similar hazards in the same way, whatever the place of work, and provides for certain safety and health issues to be regulated for.

The Act places the primary responsibility on the employer, who has a duty to provide a safe and healthy work environment, and sets out offences and penalties for breaches of the Act, of up to \$100,000 and/or one year in prison.

The Health and Safety in Employment Regulations 1995 addresses such issues as the provision of facilities, the management of noise and other specific hazards, the requirements for ROPS, duties of the employer in relation to young persons, and the duties of designers, manufacturers and suppliers. Any machinery used in a mine, quarry or tunnel is specifically exempt from the regulation on ROPS, and it is proposed that this requirement will be included in industry specific Codes of Practice.

The Health and Safety in Employment (Mining Administration) Regulations 1996 requires manager and other officials in the extractive industries to hold the appropriate Certificate of Competence. The qualifications and experience required by applicants for these certificates are set out in a Gazette Notice, and the competencies, in the form of groups of Unit Standards, required to be attained by candidates, have been approved by the Secretary of Labour. The New Zealand Qualifications Authority carries out assessment of candidates. Certificates require to be renewed after a maximum period of five years.

The Minister has now agreed that there will be industry specific regulations for underground operations in New Zealand, but that there will be no new regulations for surface operations. The draft HSE (Mining) Regulations are expected to be promulgated in the latter half of 1999. Industry groups have been advised that they will be expected to develop Codes of Practice.

Inspectors are appointed under the HSE Act 1992, within the Occupational Safety and Health (OSH) Service of the Department of Labour. These inspectors are still required to have managerial certificates of competence, and to have had significant managerial experience.

### **MINE SAFETY LEGISLATION IN NEW SOUTH WALES**

In New South Wales the Occupational Health and Safety Act 1983 (OH&S Act) is the primary "umbrella" occupational Health and Safety legislation applying to all industry. This Act identifies dedicated mining legislation as "associated legislation". Where conflict arises, the OH&S Act prevails. Regulations to OH&S Act, except in two specific cases, do not apply to the mining industry. Those two specific cases deal with workplace occupational health and safety committees and pest control. Inspector are appointed under this Act for industries other than the mining industry. In the case of the mining industry, inspectors are appointed under the dedicated mining legislation. This Act puts in effect general duty of care provisions for employers (who are required to take reasonable care of their employees and others), and suppliers and manufacturers of plant and substances. Employees are required to co-operate with the employer and to take reasonable care of persons at their place of work. The OH&S Act is the NSW implementation of 'Robens style' legislation.

Separate legislation is in force for the coal and non-coal mining sectors. The coal mining industry is covered by the Coal Mines Regulation Act 1982 (CMRA) and regulations. Replacement regulations to the CMRA are intended to be in force on 1 September 1999. The current 35 regulations will be streamlined and consolidated into 3, a General Regulation, an Open Cut Regulation and an Underground Regulation. All regulation in NSW have a fire year shelf life by virtue of the Subordinate



Legislation Act 1989 that causes their automatic repeal after that period of time.

The Mines Inspection Act 1901 covers the non-coal sector, including both metalliferous mining and the extractive industries. The one current 'regulation' under this Act is the Mines Inspection General Rule 1994. There is provision in the Act for Special Rules, which apply to specific mines, but this facility is not used at this stage.

General Rule 1994 "sunset" on 31 August 1999, and will be substantially remade with relatively simple, albeit important up grading. The target date for this replacement is 1 September 1999.

Inspectors are appointed under either the coal legislation or under the non-coal legislation, except for the engineering inspectors who may be, depending on their qualifications and experience appointed under either or both. Inspectors are regionally based with both coal and non-coal inspectors reporting to one Area Manager, a number of whom report to the Assistant Director Safety Operations, who, in turn reports to the Director Mine Safety and Environment.

A major review of the CMRA is presently underway. The recently revised Queensland legislation is likely to be influential in this process.

Mines in NSW are also subject to the Dangerous Goods Act 1975 (the main effect here being control of explosives on the surface) and the Mines Rescue Act 1994 in the case of coal mines.

## **MINE SAFETY LEGISLATION IN VICTORIA**

Victorian Mining and Extractive Industry (commercial stone) sites are subject to several Acts and Regulations.

The principal Acts under which Extractive Industries are permitted to operate are the:

- The Occupational Health and Safety Act 1985
- The Dangerous Goods Act 1985
- Extractive Industries Development Act (EIDA) 1995 and associated regulations

The Principle Acts under which metalliferous and Coal Mines are permitted to operate are the:

- Resources Development Act and associated Health and Safety Regulations
- The Dangerous Goods Act 1985

With respect to extractive sites the OHS Act has primacy. The Act falls under the jurisdiction of the Victorian Work Cover Authority and is administered at a site level by the Division of Mineral and Petroleum by administrative agreement.

The Act contains General Duty of Care obligations and subordinate legislation is largely of a process and exposure standard type. The Act provides for Approved Codes of Practice and a number of these are issued in support of the regulations.

The Dangerous Goods legislation on the other hand is generally prescriptive and detailed in nature. The Extractive Industries Development Act has very few safety-related provisions and largely focuses on titles and on site issues.

Metalliferous and Coal Mines fall under the jurisdiction of the Mineral Resources Development Act. With respect to metalliferous mines, separate health and safety subordinate legislation exists. The legislation does contain some process and exposure standard legislation however the majority of regulations are very detailed.

Coal Mine Safety is controlled through the Mineral Resources (Health and Safety in large open cut mines) Regulations 1995. These regulations are essentially performance based and elaborate on the General Duty of Care principle.

The Extractive Industries Regulations sunsets in the year 2000 and proposed new regulations under the Act will remove duplication with the OHS Legislation, incorporate the principles of lifecycle safety and environmental protection and the Mine Safety and Environment Plan concept.

Regulations will be of a process and exposure type and be supported by industry specific Codes and Guidelines.

## **MINE SAFETY LEGISLATION IN WESTERN AUSTRALIA**

In Western Australia the metalliferous and coal sectors of the industry operate under the Mines Safety and Inspection Act (1994) and Regulations (1995), which was proclaimed 8 December 1995.

The Act covers all aspects of mining from exploration, through development, production, and closure and rehabilitation. Extractive industry (quarrying) is included together with treatment plants, smelters, refineries, and dedicated ports and rail systems.

The major provisions in the Act exactly mirror those in the Occupational Safety and Health Act (1984) which applies to all industry, commerce and government activity other than mining and petroleum.

These are:

- General Duties relating to Occupational Safety and Health; obligations for employers, employees, self-employed persons, suppliers, manufactures, importers etc.
- The Consultation Provisions.

These facilitate setting up safety and health representatives and committees and the resolution of issues, and establish a tripartite consultative body, the Mines Occupational Safety and Health Advisory Board, (MOSHAB), which provides advice to the Minister on occupational Health and Safety matters.

MOSHAB has a similar function to the WorkSafe WA Commission, which body has a representative on MOSHAB, and a Memorandum of Understanding on liaison between the two administering Departments. The Act provisions for operation of both bodies are closely parallel.

The MSI Act contains in addition to the above, provisions for an Inspectorate to administer the Act, and specific provisions for the management of mines. This latter provision is not found in the OSH Act, and is the only substantial difference between the two Acts, comprising additional requirements. The provision in no way detracts from the vesting of the primary responsibility with the employer. This is expressly stated. The role statutory management positions are to carry out specific obligations on behalf of the employer, which

may be a body corporate, established in another State.

Acts in Western Australia are subject to a five year review. The first review of the MSI Act is due by the close of year 2000.

The Regulations supporting the Act form a detailed body, some of which relate to administrative (procedural) functions. The great bulk of the regulations on specific issues is enabling in format and does not limit the duty of care obligations but underpin them.

The Act contains provision for Codes of Practice and guidelines, which are endorsed through MOSHAB. The Act is administered by the Inspectorate, whose staff is based in regional centres across the State co-ordinated through the executive in Perth.

The Explosives and Dangerous Goods Act applies on minesites, in respect of major storage facilities, and the Electricity Act and Radiations Safety Act also apply.

The MSI Act Regulations have provisions for electrical and radiation safety matters.

## **MINE SAFETY LEGISLATION IN QUEENSLAND**

The Queensland Parliament has recently passed two pieces of mining safety and health legislation to replace the 1925 Coal Mining Act and the 1964 Mines Regulation Act. These Acts are the Coal Mining Safety and Health Act 1999 and Mining and Quarrying Safety and Health Act 1999.

It is planned to have a transition period before the new legislation is fully implemented in order to allow the completion of the regulations and standards, but also just as importantly, to allow industry and other parties affected to prepare for the changes required of them.

Implementing these two pieces of legislation will complete the most extensive change to mining and quarrying safety requirements to be made in Queensland since 1925 when the first comprehensive coal mining safety legislation was introduced.

In Queensland the Workplace Health and Safety Act 1995 and the mining safety and health legislation comprise the major legislative controls covering safety at work. The Workplace Health and Safety Act specifically excludes mines.

Considerable care has been taken to ensure that these two legislative regimes complement each other. While it has been determined that the mining legislation must contain additional provisions to address the unique hazards and greater risks associated with mining, the mining legislation follows the structure and general content of the industrial safety legislation.

The major influence on the legislation has been the principles established by Robens and the recommendations of Moura No.2 Inquiry.

It was decided to develop two Acts for mining safety rather than one. The two Acts are cognate Acts in that they are very similar in structure and content, however, culture and tradition, a different mix of stakeholders plus the specific requirements recommended by the Moura No. 2 Inquiry for coal mines led to the decision to have two separate Acts.

The structure of the legislation consists of a principal Act, subordinate legislation and non-mandatory standards/guidelines. These standards or guidelines, however, have to be officially recognised by the Minister and gazetted.

It is anticipated that these standards or guidelines will play an important role in the day to day operations of mines and quarries.

Although they are not mandatory, safety and health obligations can be met by following methods contained in these standards or guidelines. In the event that they are not followed, then the onus is on the operator to demonstrate that the alternative method adopted manages risk equally or better than they way suggested in the standard or guideline. As they do not go through the parliamentary drafting process they are seen as an important mechanism to introduce common standards in mining across state boundaries.

Following Robens precepts, the legislation spreads safety and health obligations throughout the organisation using the guiding principle that the more authority a person has to address safety issues, the greater the obligation placed on them.

The approach leads to the greatest obligation placed on company executives and distributed down the chain of command to the whole workforce. However, at each level obligations are limited to the ability of persons at that level to address health and safety concerns.

The legislation creates the position of Site Senior Executive who is the operators' senior manager controlling the site. The overall responsibility for site safety is shared between the Site Senior Executive and the board of directors.

Other innovations are the extension of obligations to contractors, suppliers of goods and services and the establishment of an Advisory Council to establish and publish competencies, review mine safety and generally advise the Minister.

As a result of the Moura Inquiry Recommendations, key positions, particularly in underground coal mines, will require statutory certificates.

One important issue that arose during the development of the legislation concerned the powers of inspectors. Inspectors' powers must be adequate to administer the essentially self-regulatory legislation. This is an issue that required careful consideration.

Most other Acts apply to mining with the exclusion of the Workplace Health and Safety Act and the proposed Dangerous Goods Safety Management Bill.

## **MINE SAFETY LEGISLATION IN SOUTH AUSTRALIA**

### ***Occupational Health, Safety & Welfare Act 1986***

This Act provides for the health, safety and welfare of persons at work including those working in mines and quarries.

#### ***Provisions of the Act***

The Act provides for the establishment and functions of the SAOHS Commission and establishes the duty of care applicable to employers, self employed persons, workers, occupiers, designers and owners of building, manufactures and all persons.

There is provision for the appointment and functions of health and safety representatives and committees and for the resolution of health and safety issues.

The Act includes provisions for the appointment of inspectors and their powers including improvement and prohibition notices. Under the Act an inspector means "in relation to mines to which the Mines & Works

Inspection Act, 1920 applies an inspector of mines under the Act".

Other provisions include the function of a new committee, appeals, expiation of offences, use of codes of practice in proceedings, modifications of regulations and exemptions from the Act.

### **Regulations under the Act**

These provide for the responsibilities under the Regulations and their general principles including hazard identifications, risk assessment, control of risk, instruction and training induction and supervision. Also included are provisions relating to general work place requirements, plant, hazardous substances, and hazardous work including sections on mining and opal mining, and administration procedures.

### **Mines & Works Inspection Act 1920**

This Act applies to every mine (and quarry) under whatsoever tenure held and wheresoever situated within the State.

### **Provisions of the Act**

The Act provides for appointment of inspectors and their powers, which includes giving directions and cessation orders on safety and environmental issues. There is also a provision for operations to be proclaimed to be or not to be mines.

### **Regulations under the Act**

The regulations provide for the qualifications and appointment of managers, mine plans and programs and measures to ameliorate the environmental impacts created by mining.

### **General**

The Occupational Health, Safety and Welfare Act is considered by the South Australian Governments to be the principal legislation of regulating health and safety in all worksites including mines and quarries.

## **MINE SAFETY LEGISLATION IN THE NORTHERN TERRITORY**

The Northern Territory Government's philosophy of providing a one-stop-shop service to its mining industry clients has achieved legislative control of the majority of operational activities on all mines under the

one Act. That Act, the Mine Management Act 1990, comprises aspects of legislation relating to the activities of other industries including construction, handling of dangerous goods, waste management, water control, work health and safety (including electrical, mechanical and radiation safety), environment protection, etc.

For example, the Work Health Act covers occupational health and safety as well as workers compensation and rehabilitation for all Territorians. This Act, introduced in 1986, follows the Robens philosophy. Part IV, dealing with occupational health and safety, does not apply to mines. It describes a general duty of care for employers, occupiers of workplaces, self-employed persons, manufacturers and suppliers, owners and workers. In addition health and safety committees with workers comprising at least half of the committee's membership must be established where more than 20 workers are employed and the majority of workers request such a committee.

In contrast, the Mine Management Act describes a general duty of care for mine manager and employees, with the definition of "employee" including those who perform work or service of any kind at a mine such as contractors, self-employed, etc. While health and safety committees are not a requirement, employee inspections of a mine may be carried out where employees are authorised at a meeting of a majority of workers.

The Act also provides for the certification of mine manager, ensure notification of accidents and incidents and specifies the functions of inspectors. Inspector may issue directions to remedy a matter at a mine to ensure health and safety even though the matter may not be covered in the legislation. Monetary penalties exist for contravention of, or failure to comply with, provisions of the legislation.

The Mine Management Regulations focus on aspects of health and safety related specifically to mining and associated activities. The prescriptive nature of some of the Regulation is the topic of discussion during the present review of legislation relating to operational activities on mine sites. The review is addressing ways of ensuring that accountability for the health and safety aspects of activities on mine sites rests with those undertaking those activities rather than being shared with the regulatory authority specifying particular requirements.

The Act provides for Codes of Practice, although none have yet been approved by the Minister. Instead, industry participants are encouraged to adopt best industry practice and use published guidelines and voluntary codes of practice as the minimum standards acceptable.

### **MINE SAFETY LEGISLATION IN TASMANIA**

In Tasmania, all industries operate under the Workplace Health and Safety Act, which was proclaimed in August 1995. This Act is based upon the "Duty of Care" philosophy. Different Regulations applicable to different industries remained in force until 8 December 1998, when the Workplace Health and Safety Regulations were proclaimed. The legislation provides for the health, safety, and welfare of all persons at work.

The Act has provisions for the appointment of:

- a) the Director of Industry Safety;
- b) Inspectors; and
- c) The Chief Inspector of Mines.

Inspectors are also appointed under the Industrial Relations Act 1984, the Dangerous Goods Act 1998, and the Workers Rehabilitation and Compensation Act 1988. This effectively enables inspectors to make enquires into areas of performance of all persons employed. There is provision for Certificates of Competency in the legislation. However, as there is no National set of Competencies for Mine Managers, certificates are no longer available in Tasmania until those competencies are defined.