

1991—No. 455

## **MINES RESCUE ACT 1925—REGULATION**

(Mines Rescue Regulation 1991)

NEW SOUTH WALES



*[Published in Gazette No. 121 of 30 August 1991]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Mines Rescue Act 1925, has been pleased to make the Regulation set forth hereunder.

ROBERT WEBSTER  
Minister for Natural Resources.

### **PART 1—PRELIMINARY**

#### **Citation**

1. This Regulation may be cited as the Mines Rescue Regulation 1991.

#### **Commencement**

2. This Regulation commences on 1 September 1991.

#### **Definitions**

3. (1) In this Regulation:

means approved for the time being by the Minister;

“**central rescue station**” means a rescue station referred to in section 5 (2) of the Act;

“**close of nominations**”, in relation to an election, means the time and date for the close of nominations in the election fixed by a notification given under clause 4 (1) (b);

“**close of the ballot**”, in relation to an election, means the time and date for the close of the ballot in the election fixed by a notification given under clause 4 (1) (b);

“**Director-General**” means the Director-General of the Department of Mineral Resources;

“**district**” means a district referred to in section 5 (1) of the Act;

“**district committee**” means a committee referred to in section 11 (1) of the Act;

“**election**” means an election of a person to hold office as an elected member of a district committee;

“**extraordinary election**” means an election to fill a casual vacancy on a district committee;

“**fund**”, in relation to a district committee, means the mines rescue fund for the district as referred to in section 7 (1) of the Act;

“**general election**” means an election other than an extraordinary election;

“**mine owner**” means the owner of a mine;

“**returning officer**”, in relation to a district, means the person for the time being appointed under clause 18 to be the returning officer for the district;

“**subsidiary rescue station**” means a rescue station referred to in section 5 (3) of the Act;

“**the Act**” means the Mines Rescue Act 1925.

(2) In this Regulation, a reference to a numbered form is a reference to a numbered form set out in Schedule 1.

## PART 2—ELECTIONS

### Division 1—Calling of election

#### Calling of election

4. (1) As soon as practicable after being notified in writing by the Minister that an election is required to be held, the returning officer for the district concerned:

- (a) must obtain from the Director-General a list of the names and addresses of all the mine owners within the district; and
- (b) must cause to be given to each of the mine owners a notification:
  - (i) stating that an election is to be held; and
  - (ii) inviting nominations; and
  - (iii) fixing the close of nominations; and
  - (iv) fixing the close of the ballot,
 accompanied by a copy of an approved form for the nomination of candidates; and

- (c) notify the Minister of the times and dates fixed pursuant to paragraph (b) (iii) and (iv).
- (2) The close of nominations is to be not later than:
- (a) in relation to a district committee for a district established before the commencement of this Regulation:
    - (i) for the first general election—30 November 1991; and
    - (ii) for subsequent general elections—each third anniversary of that date; and
  - (b) in relation to a district committee for a district established after the commencement of this Regulation:
    - (i) for the first general election—the date occurring 2 months after the establishment of the district; and
    - (ii) for subsequent general elections—each third anniversary of that date.
- (3) The close of the ballot is to be not later than:
- (a) in relation to a district committee for a district established before the commencement of this Regulation:
    - (i) for the first general election—14 December 1991; and
    - (ii) for subsequent general elections—each third anniversary of that date; and
  - (b) in relation to a district committee for a district established after the commencement of this Regulation:
    - (i) for the first general election—the date occurring 3 months after the establishment of the district; and
    - (ii) for subsequent general elections—each third anniversary of that date.
- (4) Failure to comply with subclause (2) or (3) does not invalidate an election.

#### **Number to be elected**

5. (1) Four members of the district committee are to be elected at a general election.
- (2) If less than 4 persons are nominated for election, the Minister is to appoint a sufficient number of persons to complete the required number.
- (3) Persons appointed by the Minister under subclause (2) are taken to be elected members of the district committee.

**Nominations for elected member**

**6. (1)** A nomination of a candidate must be lodged with the returning officer, must be made in the approved form and must contain:

- (a) the full names and signatures of at least 3 nominators, each being a mine owner within the district in respect of which the election is to be held; and
- (b) the signature of the nominated candidate indicating his or her consent to the nomination.

**(2)** The returning officer must reject a nomination lodged after the close of nominations.

**Uncontested election**

**7.** Each nominated candidate is elected unless more than 4 candidates have been nominated by the close of nominations.

**Contested election**

**8.** A ballot is to be held if more than 4 candidates have been nominated by the close of nominations.

**Division 2—Conduct of ballot****Printing of ballot-papers**

**9. (1)** The returning officer must, as soon as practicable after the close of nominations in an election for which a ballot is to be held, cause enough ballot-papers to be printed so that a ballot-paper may be sent to each mine owner.

**(2)** A ballot-paper must be in the approved form and must contain the names of the candidates in alphabetical order with a small square opposite each name.

**Voting entitlement**

**10. (1)** A person is entitled to 1 ballot-paper for each mine owned by the person within the district.

**(2)** A mine owner may, by instrument in writing, authorise some other person to vote in the election on the mine owner's behalf.

**Distribution of ballot-papers**

**11.** The returning officer must, as soon as practicable after the ballot-papers have been printed, send to each mine owner within the district:

- (a) a ballot-paper initialled by the returning officer; and
- (b) an unsealed envelope addressed to the returning officer; and
- (c) another smaller unsealed envelope bearing on the front the words “BALLOT-PAPER” and on the back the words “Name of voter” and “Signature of voter”, together with appropriate spaces for insertion of a name and signature.

**Duplicate ballot-papers**

**12. (1)** The returning officer may, at any time before the close of the ballot, issue a person with a new ballot-paper if the person satisfies the returning officer by statutory declaration that:

- (a) the ballot-paper sent to the person has been spoilt, lost or destroyed; and
- (b) that the person has not already voted at the election.

**(2)** The returning officer is to maintain a record of all duplicate ballot-papers issued under this clause.

**Recording of vote**

**13.** A person who wishes to vote at the election:

- (a) must record the person’s vote on a ballot-paper by placing a cross in the squares against the names of up to 4 candidates for whom the person wishes to vote; and
- (b) must place the completed ballot-paper in the smaller envelope marked “BALLOT-PAPER”; and
- (c) must seal the smaller envelope; and
- (d) must complete the person’s full name on, and sign, the back of the smaller envelope; and
- (e) must place the sealed envelope, together with any written authority under clause 10 (2), in the envelope addressed to the returning officer; and
- (f) must seal the outer envelope and return it to the returning officer so as to be received by the returning officer before the close of the ballot.

**Receipt of ballot-papers**

**14. (1)** The returning officer must reject any envelope purporting to contain a ballot-paper if the envelope:

- (a) is not received by the returning officer before the close of the ballot; or
- (b) is unsealed,

without opening the envelope or inspecting the ballot-paper.

**(2)** The returning officer is to examine the name on the back of each envelope received before the close of the ballot and:

- (a) if the returning officer is satisfied that a person of that name is a mine owner within the district, or has been authorised to vote on behalf of such a mine owner, must accept the ballot-paper in that envelope for scrutiny; or
- (b) if the returning officer is not so satisfied, or if a name or signature does not appear on the envelope, must reject the ballot-paper.

**(3)** If it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name appears on the back of the envelope, the returning officer may make such inquiries as the returning officer thinks fit and, if after making those inquiries the returning officer is satisfied that the signature is not the signature of that person, must reject any ballot-paper in the envelope.

**Division 3—Counting of votes****Ascertaining result of ballot**

**15.** The result of the ballot is to be ascertained by the returning officer as soon as possible after the close of the ballot.

**Scrutiny of votes**

**16. (1)** The returning officer must reject any ballot-paper:

- (a) that is not initialled by the returning officer; or
- (b) that has on it any mark or writing which, in the opinion of the returning officer, would enable any person to identify the voter who completed it; or
- (c) that has not been completed in accordance with clause 13 (a).

**(2)** A ballot-paper is not to be rejected as informal merely because of any unauthorised mark or writing on it if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

**Counting of votes**

**17. (1)** The returning officer is to ascertain the total number of votes recorded for each candidate on all ballot-papers not rejected under this Part.

**(2)** If there are 4 candidates who each have more votes than any of the other candidates, those 4 candidates are elected.

**(3)** If, because 2 or more candidates have an equal number of votes, there are less than 4 candidates who each have more votes than any of the other Candidates:

- (a) the candidates who each have more votes than any of the other candidates are elected; and
- (b) the additional number of candidates to be elected are to be chosen from the 2 or more candidates having an equal number of votes by the returning officer drawing (at random) the required number of names from a container prepared in accordance with subclause (4).

**(4)** The names of the 2 or more candidates concerned are to be written on similar slips of paper and the slips are to be folded, placed in a container and mixed.

**(5)** A candidate whose name is drawn from the container in accordance with this clause is elected.

**Division 4—Miscellaneous****Appointment of returning officer**

**18.** The Board is to appoint a returning officer for each district.

**Decision of returning offices final**

**19.** The decision of the returning officer on any matter relating to the holding of a ballot is final.

**Notification of result of election**

**20.** As soon as practicable after the result of an election has been ascertained, the returning officer:

- (a) must notify the Minister in writing of the candidate or candidates who have been elected; and

- (b) must cause to be published in the Gazette a notice listing the names of the candidates who have been elected (or appointed under clause 5 (2)) to the district committee concerned.

**Term of office**

**21. (1)** An elected member holds office for the period of 3 years commencing on 1 January following the member's election.

**(2)** A member elected to fill a casual vacancy holds office for the unexpired portion of his or her predecessor's term of office.

**Vacancy in office of elected member**

**22. (1)** The office of an elected member becomes vacant if the member:

- (a) dies; or
- (b) resigns the office by instrument in writing addressed to the Minister; or
- (c) is removed from office by the Minister under this clause; or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (e) becomes a mentally incapacitated person; or
- (f) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

**(2)** The Minister may remove an elected member from office after making such inquiries as the Minister thinks fit and if satisfied that it is proper to remove the member from office.

**Filling a casual vacancy**

**23. (1)** An election is to be held to fill any casual vacancy in the office of an elected member.

**(2)** The returning officer must conduct such an election as soon as practicable after being notified in writing by the Minister that the election is required to be held.



(3) Divisions 1–3 (except clause 5) apply to the conduct of an extraordinary election in the same way as they apply to the conduct of a general election.

(4) In applying Divisions 1–3 to an extraordinary election:

- (a) the close of nominations is to be not earlier than 28 days after the date on which the returning officer receives notice under subclause (2); and
- (b) the close of the ballot is to be not earlier than 14 days after the close of nominations; and
- (c) details in the notification to the Minister under clause 4 (1) (c) are to be published in a daily newspaper circulating in the district; and
- (d) the references in clause 17 to 4 candidates is to be read as a reference to the number of candidates corresponding to the number of casual vacancies to be filled by the election.

## **PART 3—ADMINISTRATION**

### **Division 1—District committee meetings**

#### **General procedure**

24. The procedure for the calling of meetings of a district committee and for the conduct of business at those meetings is, subject to this Regulation, to be determined by the district committee.

#### **Quorum**

25. The quorum for a meeting of a district committee is 3 members.

#### **Calling of first meeting**

26. (1) The first meeting of a district committee after a general election is held is to be called by the Minister in such manner as the Minister thinks fit.

(2) The first such meeting must take place within 1 month after the result of the general election is notified under clause 20.

#### **Presiding member**

27. (1) At its first meeting the members of a district committee must appoint a chairperson to preside at its meetings. The person appointed as chairperson holds that office until a successor is appointed.

(2) The chairperson or, in the absence of the chairperson, another member elected to preside at the meeting by the members present has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

28. A decision supported by a majority of votes cast at a meeting of a district committee at which a quorum is present is the decision of the district committee.

**Minutes**

29. A district committee must cause full and accurate minutes to be kept of the proceedings of each meeting of the district committee.

**Frequency of meetings**

30. A district committee must meet at least once in each month.

**Division 2—Financial management and reporting****Estimate of expenditure**

31. A district committee must, during November of each year, send to the Board a statement containing a detailed estimate of expenditure by the district committee for the following calendar year.

**Fund**

32. (1) A district committee must keep proper accounts and records of all receipts into and expenditures from its fund.

(2) Cheques drawn on the district committee's fund must be signed by at least 2 persons authorised in writing by the district committee.

**Inspection of accounting records and documents**

33. A person authorised in writing by the Minister for the purposes of this clause is entitled at all reasonable times:

- (a) to full and free access to all accounting records and documents kept by a district committee in relation to its fund; and
- (b) to make copies of or take extracts from those records and documents.

**Annual report**

**34. (1)** A district committee must, during January in each year, prepare a report of its operations for the previous calendar year.

**(2)** The report of operations must include:

- (a) an income and expenditure statement, a statement of receipts and payments and a balance sheet or statement of balances; and
- (b) a summary review of the district committee's operations and achievements.

**(3)** The district committee must send its annual report to the Board so as to be received by the Board not later than 31 January following the year to which the report relates.

**PART 4—MISCELLANEOUS****Report of accidents etc.**

**35. (1)** Any accident or event that gives rise to a risk of serious injury to persons involved in mines rescue operations must be reported to the chief inspector by the superintendent or, if it occurs in or in the vicinity of a mine, by the mine manager.

**(2)** An oral report of the accident or event must be made immediately and a written report must be made within the following 24 hours.

**Appointment of staff**

**36.** A district committee may appoint persons to assist the superintendent in connection with the exercise of the superintendent's functions.

**Testing of breathing apparatus**

**37.** It is the duty of the superintendent:

- (a) to establish procedures for the testing of breathing apparatus and auxiliary equipment; and
- (b) to ensure that all such apparatus and equipment held at the central rescue station, or at any subsidiary rescue station within the same district, are regularly tested in accordance with those procedures.

**Contribution to the Central Mines Rescue Fund**

**38. (1)** For the purposes of section 6 (2) of the Act, the sum payable by the proprietor of a colliery holding specified in Schedule 2 is the

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amount calculated by applying the levy rate specified in that Schedule in respect of the colliery holding (being a rate that is expressed in cents per dollar) to the land value of the colliery holding.

(2) For the purposes of section 6 (5) of the Act, Form 1 is the prescribed form of notice of the sum payable to the Board.

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**SCHEDULE 1—FORMS**

(C1. 3)

**Form 1**

(C1. 38)

MINES RESCUE ACT 1925

NOTICE OF CONTRIBUTION PAYABLE TO THE CENTRAL MINES  
RESCUE FUND

..... 19 ....

To .....

Proprietor of ..... Colliery Holding

Your annual contribution to the Central Mines Rescue Fund for the year ending 31 December 19 has been assessed as follows:

Land value Levy rate Contribution payable

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In accordance with the provisions of section 6 of the Mines Rescue Act 1925, the above contribution is to be paid to the Mines Rescue Board on or before ....

.....  
Secretary,  
Mines Rescue Board.

NOTE: Interest becomes payable on unpaid contributions 28 days from the date of service of this notice.

**SCHEDULE 2—CONTRIBUTION TO CENTRAL MINES  
RESCUE FUND**

(Cl.38)

Colliery Holding	Levy Rate (cents)
Angus Place .....	2.1609
Appin .....	2.0749
Avon .....	2.4559
Awaba State .....	4.7799
Bad Bone .....	2.0398
Bayswater No. 2 Open Cut .....	2.4469
Berrima .....	2.8390
Bloomfield and Bloomfield Open Cut .....	2.7060
Blue Mountains .....	2.3509
Brimstone No. 1 .....	2.1300
Chain Valley .....	4.5982
Charbon .....	2.2216
Clarence .....	2.7603
Coal cliff .....	1.1350
Cooranbong .....	8.3594
Cordeaux .....	15.5546
Drayton .....	2.5690
Great Greta .....	1.2113
Gretley .....	2.1101
Gunnedah .....	2.1295
Howick open Cut .....	2.4283
Hunter Valley No. 1 Open Cut .....	2.5350
Huntley .....	0.0436
Invincible .....	13.8595
Ivanhoe .....	2.2096
Kandos No. 3 .....	2.4237
Kemira .....	1.6502
Lambton .....	3.3043
Lemington and Lemington Open Cut .....	2.6495
Liddell State .....	1.9403
Liddell (Yeildex Pty Ltd) .....	3.0770
Metropolitan .....	2.6157
Moonee .....	2.3121
Mount Thorley .....	2.6687
Munmorah State .....	10.0609
Muswellbrook No. 2 Colliery and Open Cut .....	2.7542
Myuna .....	9.3920
Nattai .....	1.0928
Nebo .....	1.1981
Newstan .....	10.1709
Newvale No. 1 .....	2.3908
Newvale No. 2 .....	1.7103
Oakdale .....	2.3049

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Colliery Holding	Levy Rate (cents)
Pelton .....	2.3206
Preston Extended .....	2.4799
Ravensthorpe Open Cut .....	2.6434
Saxonvale Open Cut .....	2.4806
South Bulli .....	2.1743
Swamp Creek Open Cut .....	2.7128
Tahmoor .....	2.1694
Teralba (Westside) .....	1.9516
Tower .....	4.4106
Ulan Open Cut .....	1.3386
Ulan No. 2 .....	3.7751
United .....	0.8093
Vickery Joint Venture .....	0.2986
Wallamaine .....	0.5574
Walarah .....	2.3121
Wambo and Wambo Open Cut .....	2.5827
Warkworth Open Cut .....	3.3369
West Cliff .....	2.5165
West Wallsend No. 2 .....	9.2548
Western Main and Western Main Open Cut .....	2.2072
Wongavilli .....	1.4818
Wyee State .....	6.1335

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**EXPLANATORY NOTE**

The object of this Regulation is to make provision, for the purposes of the Mines Rescue Act 1925, with respect to:

- (a) procedures to be followed for the election of persons to hold office as elected members of a district committee for a central rescue station in accordance with section 11 (1) of that Act; and

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- (b) the term of office of those elected members, the events which will create a casual vacancy in such an office, the procedure for filling casual vacancies and the power of the Minister to remove a member from office; and
- (c) procedures that a district committee must follow in the conduct of its affairs; and
- (d) notification of certain accidents or events; and
- (e) the appointment of staff to assist the superintendent of a district central rescue station; and
- (f) the testing of breathing apparatus; and
- (g) the contributions payable by proprietors of colliery holdings to the Central Mines Rescue Fund.

This Regulation is made in connection with the staged repeal of subordinate legislation under Part 3 of the Subordinate Legislation Act 1989.

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