

The authority now embraces an area of 5368 hectares.

Reference number:(n2020-820)

WORK HEALTH AND SAFETY REGULATION 2017

WORK HEALTH AND SAFETY (MINES AND PETROLEUM SITES) EXEMPTION (TIER-3 QUARRY MANAGERS) MARCH 2020

under the Work Health and Safety Regulation 2017

I, Garvin Burns, having delegated authority from the Secretary of the Department of Planning, Industry and Environment as the Regulator under the *Work Health and Safety Act 2011* in relation to a mine or petroleum site, pursuant to clause 684 of the *Work Health and Safety Regulation 2017*, grant the following exemption.

Dated this 20th day of March 2020.

Garvin Burns
Chief Inspector of Mines
Department of Planning, Industry and Environment

1 Name

This Exemption is the *Work Health and Safety (Mines and Petroleum Sites) Exemption (Tier-3 Quarry Managers) March 2020*.

2 Commencement

This Exemption commences on the date of publication in the NSW Government Gazette and has effect until revoked.

3 Revocation

This Exemption revokes the *Work Health and Safety (Mines and Petroleum Sites) Exemption (Tier-3 Quarry Managers) 2020* dated 26 February 2020 published in the NSW Government Gazette No 39 of 28 February 2020.

4 Interpretation

In this Exemption:

competent person means a person who has acquired through training, qualification or experience the knowledge and skills to carry out the task of supervising mining operations at a mine, other than an underground mine or a coal mine, having regard to the location of the mine, the complexity of the mining operations at the mine and the nature of the material mined.

FTE means full-time equivalent and is the hours worked by one person on a full-time basis. On an annual basis an FTE is considered to be 2000 hours.

qualified means an individual who has the qualifications in clause 31 of Schedule 10 of the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

quarry manager means the statutory function of quarry manager as specified in clause 136 of the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* and clause 31 of Schedule 10 of that Regulation.

the Regulation means the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

tier-3 quarry means a mine other than an underground mine or a coal mine where the mining operations meet the following criteria:

- (a) 5 or less workers (FTE), including the Quarry Manager and contractors, and
- (b) does not carry out dredging or blasting (explosives) activities, and
- (c) does not extract more than 30,000 cubic metres of extractive material for sale or reuse per year.

unqualified means an individual who does not have the qualifications in clause 31 of Schedule 10 of the Regulation.

Terms used in this Exemption have the same meaning as in the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2017*, *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the Regulation.

5 Exemption

This Exemption is a class exemption made by the regulator on its own initiative.

This Exemption applies to the following classes of persons and is subject to the conditions specified in clause 6 of this Exemption:

- (a) an operator of a tier-3 quarry who nominates an unqualified individual to be quarry manager at that mine.
- (b) an unqualified individual who is nominated by an operator to be quarry manager at a tier-3 quarry.

The operator of a tier-3 quarry is exempted from the following requirements in the Regulation:

- (1) clause 129(4)(g), such that a notice in relation to the commencement of mining operations at a tier-3 quarry is not required to include the identification and competency details of individuals nominated to exercise the functions of the quarry manager at a tier-3 quarry;
- (2) clause 129(6A), such that further notice is not required of a proposed material change to the details of an individual nominated to exercise the functions of the quarry manager at the tier-3 quarry;
- (3) clause 136(3), such that an individual may be nominated by a mine operator to be quarry manager although that individual is unqualified;
- (4) clause 136(4), such that an individual nominated by a mine operator to be quarry manager, who becomes unqualified, could be nominated to be quarry manager; and
- (5) clause 137(1), such that an unqualified quarry manager may supervise mining operations at a mine.

An individual is exempt from the following requirements in the Regulation:

- (1) clause 136(3)-(4), to the extent that those sub clauses require an individual who is nominated by an operator of a tier-3 quarry to be quarry manager to be qualified; and
- (2) clause 138, such that an unqualified individual that has been nominated to be quarry manager by the operator of a tier-3 quarry does not have to inform the mine operator of their lack of qualifications multiple times.

6 Conditions

The operator of a tier-3 quarry must, at the time they nominate an unqualified individual to be quarry manager at the mine, ensure the unqualified individual they have nominated is a competent person.

7 Exemption does not affect other requirements

Nothing in this Exemption affects any other applicable requirement imposed by law in relation to the matters this Exemption applies to.

Reference number:(n2020-821)