



GUIDE | WHS (MINES) LEGISLATION

Statutory functions

December 2014

Note: This guide does not apply to tourist mines, opal mines and mines at which no mining activity takes place other than exploring for minerals. There are no statutory functions for such mines.

Introduction

Schedule 10 of the *WHS (Mines) Regulation 2014* identifies a series of functions for different classes of mine that are known as 'statutory functions'. Only people meeting specified requirements are eligible to be nominated by the mine operator to exercise a statutory function.

There are four tables below that set out for each class of mine:

- the title and description of each function
- whether a practising certificate is required to perform that function
- proposed eligibility requirements for performing the function (including eligibility to obtain a practising certificate). Note that these matters will be addressed by a gazette order.

About statutory functions

Some functions can be exercised by multiple people at the mine at the same time. For example, there may be several mechanical tradespersons at an underground coal mine. However, some functions, known as key statutory functions, can only be exercised by one person at a time. This is to ensure there are clear lines of authority on critical matters so that there is no confusion, inconsistency or conflict in approach.

If someone ceases to be eligible to exercise a statutory function, for example if the function requires a practising certificate and the person's practising certificate has been cancelled, they are no longer able to carry out that statutory function.

A person can perform more than one statutory function and can exercise functions at more than one mine. For example, a person could be a quarry manager for several quarries. However, the person must also be readily available to exercise and capable of exercising the statutory function. For example, a mine operator should not nominate someone to be a quarry manager to manage multiple quarries if they involve so much work or are so far apart that the manager cannot be readily available to exercise functions at each quarry.

Key statutory functions

Certain functions have been identified as key statutory functions. These are

- mining engineering manager
- electrical engineering manager
- mechanical engineering manager
- electrical engineer
- mechanical engineer
- quarry manager
- ventilation officer.

Mining activities are prohibited if the mine operator has not nominated a person to perform a key statutory function which is vacant for more than seven days. However, this prohibition does not prevent exploration for minerals by means other than mechanical means that disturb the ground.

Only one person can be nominated to exercise a key statutory function at any one time.

What about key statutory functions at multi-shift operations?

Some mines operate multiple shifts, including shifts structured around 7-days-on, 7-days-off crews. In such cases only one person should be nominated to perform key statutory functions rather than one person per roster. For example, at an underground coal mine there might be a person on each shift or shift group who is eligible to be nominated as the mechanical engineering manager but only one person would be nominated to exercise the statutory function of mechanical engineering manager at the mine. This is to ensure coordination of mechanical engineering activities across the different shifts.

What are the mine operator's obligations in relation to statutory functions

The mine operator must ensure that:

- no one performs a statutory function at the mine unless they meet the requirements for that function
- the person nominated to perform a statutory function at a mine is readily available to exercise, and is capable of exercising, the statutory function
- only one person can be nominated to exercise a key statutory function at any one time
- no mining activities are undertaken if a key statutory function is vacant for more than 7 days (except for exploring for minerals by means other than mechanical means that disturb the ground). In the case of a coal mine, the regulator is notified of changes to people nominated to exercise statutory functions using the Notifying the regulator of reportable events form.

What are the obligations on a person nominated to exercise a statutory function?

A person nominated to exercise a statutory function at a mine must, as soon as is reasonably practicable, inform the mine operator of any matter that may interfere with the individual's ability to exercise the statutory function. An example is if a practising certificate is suspended or cancelled.

Mining supervisors

Some requirements of the regulation relate to mining supervisors – for example, in underground coal mines, there is a duty on the mine operator to equip mining supervisors with portable gas detectors, and to ensure a mining supervisor is present in the production area whenever extraction takes place.

A mining supervisor at a mine means an individual nominated to exercise any of the following statutory functions at the mine:

- mining engineering manager
- deputy
- undermanager
- quarry manager
- underground mine supervisor
- open cut examiner.

What is the eligibility criteria and what about previous qualifications?

The following table lists the position name, statutory function and requirements for qualifications. Transitional arrangements will be put in place to recognise 'former certificates' as equivalent to the new requirements. Such 'former certificates' include certain certificates of competence, permits, licences or other qualifications that were granted or required under the previous mine safety legislation; ie the *Mine Health and Safety Act 2004* (MHS Act) or *Coal Mine Health and Safety Act 2002* (CMHS Act).

Additionally, a person who holds a certificate of competence (whether a former or new certificate) will not be required to apply for a practising certificate immediately. Transitional arrangements will be put in place to ensure that certificates of competence are temporarily taken to be a practising certificate. It is important to note that only individuals who are 21 years of age or older will be eligible for practising certificates. The regulator intends that these transitional arrangements will be phased out over several years, so that holders of such former certificates and the new certificates of competence will be required to obtain a practising certificate. The regulator will publicise more information about when these transitional arrangements will end.

Mines other than underground mines or coal mines

Position	Statutory Function	Eligibility (any one of the criteria where more than one is listed)
Quarry manager	To supervise mining operations at the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a quarry manager, • Practising certificate to be a quarry manager <p><u>Former certificates:</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a production manager for an above ground mine (under the MHS Act) • Certificate of competence to be a production manager for an underground mine (under the MHS Act) • Production Manager permit (limited by and subject to all the conditions of the permit) granted under: <ul style="list-style-type: none"> ○ the MHS Act ○ Schedule 12 of the WHS (Mines) Regulation (the regulator may continue to grant such permits for up to two years after commencement of the Regulation).
Mining surveyor (only required if mine survey plan is required)	To prepare and certify the mine survey plan.	Registered mining surveyor within the meaning of the <i>Surveying and Spatial Information Act 2002</i>
Electrical engineer (only required if total connected power at mine is greater than 1,000 kilowatts or high voltage is used)	To develop and review the standards and procedures for the installation, commissioning, maintenance and repair of electrical plant and installations at the mine, and to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Electrical engineering manager certificate of competence (coal) • Electrical engineering manager certificate of competence (surface coal) • Evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be: <ol style="list-style-type: none"> a professional electrical engineer who is registered on the National Professional Engineers Register, or an electrical engineering technologist who is registered on the National Engineering Technologists Register, or an electrical engineering associate who is registered on the National Engineering Associates Register <p><u>Former certificates:</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a mine electrical engineer (underground coal) (under the CMHS Act) • Certificate of competence to be a mine electrical engineer (surface coal) (under the CMHS Act)
Qualified electrical tradesperson	To supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Have a supervisor certificate that authorises the doing of electrical wiring work, • Have a proficiency certificate (issued by State Training Services) in an electrical trade, • Have been continuously employed as an electrical tradesperson at a mine since 20 December 2005.

Underground mines other than coal mines

Position	Statutory Function	Eligibility (any one of the criteria where more than one is listed)
Mining engineering manager	To develop, supervise, monitor and review the mining engineering standards and procedures forming part of mining operations at the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a mining engineering manager for an underground mine other than a coal mine • Practising certificate to be a mining engineering manager for an underground mine other than a coal mine. <p><u>Former certificates:</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a production manager for an underground mine (under the MHS Act) • Production manager permit (limited by and subject to all the conditions of the permit) granted under: <ul style="list-style-type: none"> ○ the MHS Act ○ Schedule 12 to the WHS (Mines) Regulation (the regulator may continue to grant such permits for up to two years after commencement of the Regulation).
Underground mine supervisor (Not required to be appointed until 3 years after commencement of the WHS (Mines) Regulation).	To supervise mining operations at the mine for a shift during which production is taking place.	<ul style="list-style-type: none"> • Certificate of competence to be an underground mine supervisor • Practising certificate to be an underground mine supervisor.
Electrical engineer (only required if total connected power at mine is greater than 1000 kilowatts or high voltage is used)	To develop and review the standards and procedures for the installation, commissioning, maintenance and repair of electrical plant and installations at the mine, and to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Electrical engineering manager certificate of competence (coal) • Electrical engineering manager certificate of competence (surface coal) • Evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be: <ol style="list-style-type: none"> a professional electrical engineer who is registered on the National Professional Engineers Register, or an electrical engineering technologist who is registered on the National Engineering Technologists Register, or an electrical engineering associate who is registered on the National Engineering Associates Register. <p><u>Former certificates:</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a mine electrical engineer (underground coal) (under the CMHS Act) • Certificate of competence to be a mine electrical engineer (surface coal) (under the CMHS Act).
Mining surveyor (only required if mine survey plan is required)	To prepare and certify the mine survey plan.	Registered mining surveyor within the meaning of the <i>Surveying and Spatial Information Act 2002</i> .
Qualified electrical tradesperson	To supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Have a supervisor certificate that authorises the doing of electrical wiring work, • Have a proficiency certificate (issued by State Training Services) in an electrical trade, • Have been continuously employed as an electrical tradesperson at a mine since 20 December 2005.

Coal mines other than underground coal mines

Position	Description of function	Eligibility (any one of the criteria where more than one is listed)
Mining engineering manager (only required at mines where extraction occurs)	To develop, supervise, monitor and review the mining engineering standards and procedures forming part of mining operations at the mine (but only insofar as those standards and procedures relate to extraction).	<ul style="list-style-type: none"> • Certificate of competence to be a mining engineering manager for an underground coal mine • Certificate of competence to be a mining engineering manager for a coal mine other than an underground coal mine • Practising certificate to be a mining engineering manager for a coal mine other than an underground coal mine. <p><u>Former certificates (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a manager of a mine (underground) • Certificate of competence to be a manager of an open cut mine.
Open cut examiner (only required at mines where extraction occurs)	To supervise workers and inspect work areas in a part of the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a mining engineering manager for an underground coal mine • Certificate of competence to be a mining engineering manager for a coal mine other than an underground coal mine • Certificate of competence to be an open cut examiner • Practising certificate to be an open cut examiner. <p><u>Former certificates (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a manager of a mine (underground) • Certificate of competence to be manager of an open cut mine • Certificate of competence to be an examiner of an open cut mine.
Electrical engineer	To develop and review the standards and procedures for the installation, commissioning, maintenance and repair of electrical plant and installations at the mine, and to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Certificate of competence to be an electrical engineer for a coal mine under than an underground coal mine • Certificate of competence to be an electrical engineering manager for an underground coal mine • Have evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be: <ul style="list-style-type: none"> i. a professional electrical engineer who is registered on the National Professional Engineers Register, ii. an electrical engineering technologist who is registered on the National Engineering Technologists Register, iii. an electrical engineering associate who is registered on the National Engineering Associates Register. <p><u>Former certificates (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a mine electrical engineer (underground) • Certificate of competence to be a mine electrical engineer (surface).
Mechanical engineer	To develop and review the standards, mechanical engineering practice and procedures for the life cycle of mechanical plant and installations at the mine, and to supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a mechanical engineer for a coal mine other than an underground mine • Certificate of competence to be a mechanical engineering manager for an underground coal mine • Have evidence of compliance with Australian Engineering Competency Standards Stage 2 in respect of mining operations at a mine and be: <ul style="list-style-type: none"> i. a professional mechanical engineer who is registered on the National Professional Engineers Register, or ii. a mechanical engineering technologist who is registered on the National Engineering

Position	Description of function	Eligibility (any one of the criteria where more than one is listed)
		iii. Technologists Register, or a mechanical engineering associate who is registered on the National Engineering Associates Register. <u>Former certificates (under the CMHS Act):</u> <ul style="list-style-type: none"> • Certificate of competence to be a mine mechanical engineer (underground) • Certificate of competence to be a mine mechanical engineer (surface)
Mining surveyor	To prepare and certify the mine survey plan.	Registered mining surveyor within the meaning of the <i>Surveying and Spatial Information Act 2002</i> .
Qualified mechanical tradesperson	To supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.	Have a Certificate III in Engineering—Mechanical Trade or an equivalent qualification.
Qualified electrical tradesperson	To supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Have a supervisor certificate that authorises electrical wiring work • Have a proficiency certificate (issued by State Training Services) in an electrical trade • Have been continuously employed as an electrical tradesperson at a coal mine since 21 December 2004.

Underground coal mines

Position	Function	Eligibility (any one of the criteria where more than one is listed)
Mining engineering manager	To develop, supervise, monitor and review the mining engineering standards and procedures forming part of mining operations at the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a mining engineering manager for an underground coal mine • Practising certificate to be a mining engineering manager for an underground coal mine. <p><u>Former certificate (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a manager of a mine (underground coal).
Electrical engineering manager	To develop, supervise, monitor and review the electrical engineering standards and procedures forming part of mining operations at the mine, and to supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Certificate of competence to be an electrical engineering manager of an underground coal mine • Practising certificate to be an electrical engineering manager. <p><u>Former certificate (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a mine electrical engineer (underground).
Mechanical engineering manager	To develop, supervise, monitor and review the mechanical engineering standards and procedures forming part of mining operations at the mine, and to supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a mechanical engineering manager of an underground coal mine • Practising certificate to be a mechanical engineering manager. <p><u>Former certificate (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a mine mechanical engineer (underground).
Undermanager	To supervise the mining operations at the mine for a shift during which there are more than 15 people underground, or secondary extraction is occurring at the mine, or major changes are being made to the ventilation system for the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a mining engineering manager for an underground coal mine • Certificate of competence to be an undermanager • Practising certificate to be an undermanager. <p><u>Former certificate (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be an under manager of a mine • Certificate of competence to be a manager of a mine (underground).
Ventilation auditor	To audit the ventilation system and ventilation control plan for the mine.	<ul style="list-style-type: none"> • Practising certificate to be a ventilation auditor. <p><u>Former certificates (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Licence to audit ventilation arrangements under Clause 149(1)(h) of the Coal Mine Health and Safety Regulation 2006 • Graduate Diploma in Mine Ventilation from the University of New South Wales.
Ventilation officer	To control and manage the ventilation activities and standards forming a part of the mining operations at the mine.	<ul style="list-style-type: none"> • Practising certificate to be ventilation officer • Certificate of competence to be a mining engineering manager of an underground coal mine. <p><u>Former certificate (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Statutory Coal Mine Ventilation Officer's Qualification from the University of New South Wales • Certificate of competence to be a manager of a mine (underground).
Dust explosion control measures auditor	To audit the dust explosion control measures and standards used at the mine and report the results of those audits to the mine operator.	<ul style="list-style-type: none"> • Practising certificate to be a dust explosion control measures auditor. <p><u>Former certificate:</u></p> <ul style="list-style-type: none"> • Licence to audit dust explosion management plans under: <ul style="list-style-type: none"> ○ the CMHS Act, or ○ Schedule 12 of the WHS (Mines) Regulation (the regulator may continue to grant such licences for up to two years after commencement of the Regulation).

Position	Function	Eligibility (any one of the criteria where more than one is listed)
Deputy	To supervise workers and inspect work areas in a part of the mine.	<ul style="list-style-type: none"> • Certificate of competence to be a mining engineering manager for an underground coal mine • Certificate of competence to be an undermanager • Certificate of competence to be a deputy • Practising certificate to be a deputy. <p><u>Former certificate (under the CMHS Act):</u></p> <ul style="list-style-type: none"> • Certificate of competence to be a manager of a mine (underground) • Certificate of competence to be an under manager of a mine • Certificate of competence to be a deputy.
Mining surveyor	To prepare and certify the mine survey plan.	Registered mining surveyor within the meaning of the <i>Surveying and Spatial Information Act 2002</i> .
Fire officer	To inspect and maintain firefighting equipment at the mine.	Have demonstrated competency in the Nationally Recognised Training unit <i>RIIERR201D Conduct fire team operations</i> (or any Nationally Recognised Training unit that supersedes and is equivalent to that unit).
Roadway dust sampler	To take roadway dust samples at the mine and ascertain the level of incombustible material in those samples.	Have completed a course on the sampling and testing of roadway dust conducted by the Department of Trade and Investment, Regional Infrastructure and Services.
Qualified electrical tradesperson	To supervise the installation, commissioning, maintenance and repair of electrical plant and installations at the mine.	<ul style="list-style-type: none"> • Have a supervisor certificate that authorises the doing of electrical wiring work • Have a proficiency certificate (issued by State Training Services) in an electrical trade • Have been continuously employed as an electrical tradesperson at a coal mine since 21 December 2004.
Qualified mechanical tradesperson	To supervise the installation, commissioning, maintenance and repair of mechanical plant at the mine.	Have a Certificate III in Engineering - Mechanical Trade or an equivalent qualification.

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