

**Reprint  
as at 1 July 2013**



**Mines Rescue Trust Act 1992**

Public Act    1992 No 97  
Date of assent    27 October 1992  
Commencement    see section 1(2)

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

**An Act to provide for—**

- (a) the recognition of a trust board to carry on the functions of the Coal Mining Industries Welfare Council; and**
- (b) the dissolution of the Council; and**
- (c) the vesting of the Council's assets and liabilities in the trust board; and**
- (d) matters incidental thereto**

**Be it enacted by the Parliament of New Zealand as follows:**

**1 Short Title and commencement**

- (1) This Act may be cited as the Mines Rescue Trust Act 1992.
- (2) This Act shall come into force on 1 April 1993.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**appointed day** means the day specified in the notice published under section 3

**coal** means a substance that is anthracite, bituminous coal, lignite, oil shale, peat (other than peat mined for horticultural purposes), or sub-bituminous coal

**coal mine** includes—

- (a) any land in, on, or under which any coal mining is carried on; and
- (b) any shaft or pit in the course of being sunk for prospecting for coal or for the commencement of coal mining; and
- (c) any level or inclined plane in the course of being driven for prospecting for coal or for the commencement of coal mining; and
- (d) any borehole sunk from the surface and connecting with the underground workings of a coal mine; and
- (e) any surface hole or subsidence above the underground workings of a coal mine; and
- (f) all works belonging to a coal mine

**coal mining** includes—

- (a) the removing of overburden to give access to coal; and
- (b) the stacking, deposit, storage, or treatment, of coal; and

- (c) the deposit or discharge of any coal, debris, material, overburden, refuse, or water, produced from or in consequence of coal mining; and
- (d) the erection, maintenance, or use, of machinery connected with coal mining; and
- (e) the construction or use of aerial ropeways, buildings, channels, conveyors, dams, or trucks, in connection with coal mining

**the Council** means the Coal Mining Industries Welfare Council established by section 230(1) of the Coal Mines Act 1979

**department** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**former Coal Mines Act** means an enactment repealed by the Coal Mines Act 1979 or by a former Coal Mines Act

**inspector** means a person authorised under section 8(1)

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**quarter** means a period of 3 months commencing on 1 January, April, July, or October

**rescue area** means an area for the time being—

- (a) defined under section 5(1)(a); or
- (b) defined or deemed to have been defined under section 236(5) of the Coal Mines Act 1979

**Secretary** means the chief executive of the department

**the trust board** means the Board approved under section 3.

### **3 Minister may approve trustees or society**

- (1) If satisfied that any trustees or society called the Mines Rescue Trust—
  - (a) is incorporated as a Board under Part 2 of the Charitable Trusts Act 1957; and
  - (b) has as its functions—
    - (i) the establishment of rescue stations in rescue areas; and

- (ii) the maintenance of rescue stations (whether established under subparagraph (i) or established or deemed to have been established under section 236 of the Coal Mines Act 1979) in rescue areas; and
    - (iii) the purchase of real property, goods, and services for rescue stations in rescue areas; and
  - (c) has a constitution that complies with subsection (2),— the Minister may, by notice in the *Gazette*, approve it for the purposes of this Act, with effect on a day specified in the notice.
- (2) The Minister shall not approve any Board unless it is so constituted that they or it comprises—
- (a) a person appointed by the Secretary, who has no voting rights (and is not counted for the purposes of determining whether or not a quorum is present):
  - (b) 2 people appointed by the body that, on the commencement of this Act, was known as Coal Corporation of New Zealand Limited:
  - (c) 1 person appointed by the body that, on the commencement of this Act, was known as the Coal Producers Federation of New Zealand:
  - (d) 1 representative of owners of coal mines situated (wholly or in part) in rescue station areas that are (wholly or in part) in the Provincial District of Westland:
  - (e) 1 person appointed by the body that, on the commencement of this Act, was known as the Amalgamated Workers Union NZ Incorporated:
  - (f) either—
    - (i) no other member; or
    - (ii) other members, each of whom is to be appointed by the trustees or society or by one or other of the bodies referred to in paragraphs (b), (c), and (e).

#### 4 **Dissolution of Council**

On the appointed day,—

- (a) the Council shall be deemed to have been dissolved; and

- (b) all assets, rights, liabilities, and debts of the Council shall become assets, rights, liabilities, and debts of the trust board.

## **5 Minister may define rescue areas**

- (1) Subject to subsection (2), the Minister may from time to time, by notice in the *Gazette*,—
  - (a) define areas in respect of which rescue stations may be established and maintained; or
  - (b) revoke or amend the definition of any rescue area.
- (2) The Minister shall not give notice except at the request of, or after consulting, the trust board.

## **6 Appointment of commissioner**

- (1) Subject to subsections (2) to (4), the Governor-General may, by Order in Council,—
  - (a) appoint a commissioner to perform the functions and duties of the trust board specified in section 3(1)(b):
  - (b) revoke a commissioner's appointment.
- (2) The Governor-General shall not make an order except on the recommendation of the Minister.
- (3) The Minister shall not recommend the making of an order appointing a commissioner unless satisfied, on reasonable grounds, that the trust board is for the time being not performing the functions specified in section 3(1)(b).
- (4) The Minister shall recommend the making of an order revoking a commissioner's appointment if, and only if, satisfied, on reasonable grounds, that—
  - (a) the trust board is able to perform its functions without substantial difficulties; or
  - (b) it is necessary to appoint a new commissioner.
- (5) While an order is in force under this section,—
  - (a) the commissioner appointed shall have the functions specified in section 3(1)(b), and, in relation to the performance of those functions, shall have and may exercise all the Board's powers; and
  - (b) the trust board shall not perform any of those functions.

**7 Levies**

- (1) Subject to subsection (2), on or before the last day of the month after the end of every quarter (being a quarter that ended after the appointed day), the owner of a coal mine that is (wholly or partly) within a rescue area shall pay to the trust board,—
  - (a) in the case of an underground coal mine, a sum calculated at the rate of 40 cents (or any lower amount for the time being prescribed in that behalf); and
  - (b) in the case of an opencast coal mine any part of which is within 50 kilometres of a rescue station,—
    - (i) a sum calculated at the rate of 20 cents (or any lower amount for the time being prescribed in that behalf) if it has ever been worked as an underground coal mine; and
    - (ii) a sum calculated at the rate of 10 cents (or any lower amount for the time being prescribed in that behalf) if it has never been worked as an underground coal mine,—for every tonne or part thereof of coal mined from the mine.
- (2) If any amount required by subsection (1) to be paid to the trust board is not paid by the day on or before which it is required by that subsection to be paid, it shall be deemed to have been increased by one tenth.
- (3) Every amount required by subsection (1) to be paid to the trust board (whether or not increased under subsection (2)) is exclusive of goods and services tax under the Goods and Services Tax Act 1985, and shall be increased accordingly.
- (4) The trust board may recover any amount required by this section to be paid to it, in any court of competent jurisdiction, as a debt due to it.
- (5) The trust board shall apply every amount paid to or recovered by it under this section for the performance of the functions specified in section 3(1)(b).
- (6) Before 1 July in every year the trust board shall give the Secretary independently audited accounts of its income under this section during the year ending with the preceding 31 March, and the expenditure of that income.

## **8 Powers of entry, inspection, etc**

- (1) The Secretary may from time to time after the appointed day, for the purpose of obtaining any information required for the purposes of section 7, give any inspector written authorisation, either generally or in any particular case, to—
  - (a) enter at any reasonable time, and unless giving notice would defeat the purpose of entry, on giving reasonable notice to the occupier, any place that is not a home:
  - (b) inspect and examine any books, accounts, vouchers, records, or documents:
  - (c) require any person to produce any books, accounts, vouchers, records, or documents, in the person's possession or control, and allow copies of or extracts from them to be made or taken:
  - (d) require any person to provide any information, or answer any question;—and, subject to subsections (2) and (3), the person authorised may enter, inspect and examine, or require, accordingly.
- (2) The authorisation shall refer to this section, and specify—
  - (a) the inspector's full name; and
  - (b) the powers conferred on the inspector by it.
- (3) Every inspector exercising a power of entry under subsection (1) shall carry the authorisation and some proof of identity; and shall produce them to the apparent occupier of the place entered—
  - (a) if practicable, on entry; and
  - (b) whenever reasonably required to do so by the apparent occupier after entry.
- (4) Every person required under subsection (1) to produce or provide any thing has the same privileges in relation to its production or provision, or the answering of any question, as witnesses have in courts of law.

## **9 Offences**

- (1) No person shall—
  - (a) provide any information required under section 8, knowing it to be false in any material particular; or
  - (b) give an answer to any question asked under section 8, knowing it to be false in any material particular; or

- (c) knowingly omit from any information given under section 8 any material matter; or
  - (d) knowingly omit from the answer to any question asked under section 8 any material matter; or
  - (e) subject to subsection (4) of section 8, fail without reasonable cause to comply with a requirement under that section.
- (2) Every person who fails to comply with any provision of subsection (1) commits an offence, and is liable on conviction to a fine not exceeding \$2,000.
- (3) Where—
- (a) any person has failed to comply with any provision of subsection (1); and
  - (b) the person is an employee or agent of some other person; and
  - (c) the failure occurred in the course of the employment or agency of the employee or agent; and
  - (d) the failure—
    - (i) was within the authority of the employee or agent; or
    - (ii) occurred with the permission or consent of the other person,—the other person shall be deemed to have failed to have complied with the provision too.
- (4) Subsection (3) shall have effect notwithstanding that the employee or agent concerned may not have been charged with or convicted of any offence.

Section 9(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## 10 Transitional

Subject to section 11(1), every amount that immediately before the appointed day was payable to the Public Trustee under Part 8 of the Coal Mines Act 1979 shall, on and after that day, be payable to the trust board as if it had become payable under section 7.

**11 Validations**

- (1) Every person's actions (and failure to act) shall be deemed to have been, and to be, as lawful as if, no amounts had ever become payable to the Public Trustee under Part 8 of the Coal Mines Act 1979 in respect of any part of the period commencing on 1 January 1989 and ending with 30 June 1990.
  - (2) Notwithstanding section 234 of the Coal Mines Act 1979, the collection in respect of any part of the period commencing on 1 July 1990 and ending immediately before the appointed day of amounts of levy under that section lower than required by that section is hereby validated and deemed to have been (or, as the case may be, to be) lawful.
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**Notes****1 General**

This is a reprint of the Mines Rescue Trust Act 1992. The reprint incorporates all the amendments to the Act as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Criminal Procedure Act 2011 (2011 No 81): section 413

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