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**THE LEGISLATIVE HISTORY OF THE COAL MINES
REGULATION ACT 1946**

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ABSTRACT

An examination of the legislative history of the Coal Mines Regulation Act 1946 in Western Australia . It examines the early Coal Mines Regulation Act of 1902 and the repeal of the 1946 legislation by the Mines Safety and Inspection Act 1994. It provides an analysis of the legislative changes that were made to coal mine health and safety during the period 1895 to 1994 and identifies some of the political debates about the legislation during that period.

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Legislation dealing with health and safety in coal mines was first introduced into Western Australia in 1895 as part of the *Mines Regulation Act 1895*. That legislation applied to all types of mining including coal mining. The *Coal Mines Regulation Act 1902* was introduced in 1902.¹ The reason behind introducing legislation specifically covering the coal mines was summed up by the parliamentary member for the East:

The real object of introducing the Bill is that it has been discovered that the Mines Regulation Act of 1895 is not sufficient to meet the circumstances of a coal mine ... The dangers connected with coal mining are of a peculiar character, and they are dealt with by specific provisions solely peculiar to the industry.²

The legislation was first introduced into the Assembly, who decided they did not have the experience to deal with such a specific bill and, hence, appointed a committee whose members were knowledgeable of the coal industry.³ Once the bill was returned from the special committee, no contentious debate evolved in either of the houses.⁴ The parliamentary member for the East explained this when he said: "There is very little indeed in the Bill that is new; it is mostly a copy of Acts which have been working in other States".⁵

¹ No. 25 of 1902.

² *Western Australian Parliamentary Debates*, Vol 20, 16 Oct 1901 - 19 Feb 1902, p3031.

³ *Western Australian Parliamentary Debates*, Vol 19, 28 June 1901 - 16 Oct 1901, pp1505-1506.

⁴ For discussion see *Western Australian Parliamentary Debates*, Vol 20, 16 Oct 1901 - 19 Feb 1902, pp2857-2860; 2920-2924; 2957-2959; 3029-3034; 3058-3061.

⁵ *Western Australian Parliamentary Debates*, Vol 20, 16 Oct 1901 - 19 Feb 1902, p3031.

The Act underwent three minor amendments in 1915⁶ to remove anomalies in the Act. In debates during 1926 on some proposed amendments, the *Coal Mines Regulation Act 1902* was considered a well-drafted piece of legislation, as it had remained virtually unchanged for 24 years, despite the amendments in 1915.⁷

The 1926 amendments raised considerable discussion.⁸ One particularly controversial issue concerned the number of hours worked underground. It was proposed that coal miners should work no longer than 7 hours underground, rather than the 8 hours prescribed in the Act.⁹ It was argued that working 7 hours underground had been the practice for the past five years and had improved health and safety conditions, as well as productivity. Counter arguments arose, including one view that no other legislation had fixed hours and that it was a function of the Arbitration Court to determine the number of hours. The change in working hours was passed through both houses by a small majority. However, the Act was not amended to reflect this change until 1946.¹⁰

⁶ No. 25 of 1915. These amendments dealt with the re-classification of second class certificates; changes in conditions for a mining manager or a mine inspector's certificate of service; and an extension of the Coal Mines Accident Relief Fund to cover check weighers and check inspectors. *Western Australian Parliamentary Debates*, Vol 50, 3 Dec 1914 - 4 Mar 1915, pp1246-1247; 1369-1370.

⁷ *Western Australian Parliamentary Debates*, Vol 74, 29 Jul 1926 - 28 Oct 1926, pp1018-1019.

⁸ No. 36 of 1926. The amendments covered the qualifications of a mine manager; the eligibility age for boys to contribute to the Coal Mines Accident Fund; the construction of a second opening to a coal mine; and the removal of coal mines from the *Mines Regulation Act 1906*, concerning Sunday Labour. *Western Australian Parliamentary Debates*, Vol 74, 29 Jul 1926 - 28 Oct 1926, pp582-585; 646-658; 747-762; 963-965; 1018-1023; 1068-1071; 1101-1108; 1237-1238; 1271-1284; 1456-1459.

⁹ See *Western Australian Parliamentary Debates*, Vol 74, 29 Jul 1926 - 28 Oct 1926, pp582-585; 646-658; 747-762; 963-965; 1018-1023; 1068-1071; 1101-1108; 1237-1238; 1271-1284; 1456-1459.

¹⁰ *Western Australian Parliamentary Debates*, Vol 118, 23 Oct 1946 - 13 Dec 1946, pp2144-2148.

Further minor amendments were made in 1928,¹¹ 1940¹² and 1946.¹³ All amendments in 1946 were passed with minimal debate, including the change in hours worked underground, which had previously received considerable attention in 1926. The Act was also consolidated in 1946 to include all previous amendments as well as some new ones. The consolidated Act is the basis for the current legislation and is known as the *Coal Mines Regulation Act 1946*.

In 1951,¹⁴ 1962¹⁵ and 1965,¹⁶ the *Coal Mines Regulation Act 1946* underwent several other amendments, resulting in minimal change to the principal Act.

In 1976, amendments to the legislation raised considerable discussion regarding the qualifications for a certificate of competency, to incorporate people experienced in open cut mining.¹⁷ The discussion focused on the opposition by the unions in allowing an open cut mine manager to obtain an "open cut certificate of

¹¹ No. 44 of 1928. 'Check inspectors' were replaced by special and workmen's inspectors, based on the *Mines Regulation Act 1915*. *Western Australian Parliamentary Debates*, Vol 80, 17 Oct 1928 - 20 Dec 1946, pp2073-2074; 2188-2196; 2382-2384.

¹² No. 3 of 1940. Resources in the Coal Mines Accident Fund were dropping dangerously low, so the miners agreed to increase their contributions. *Western Australian Parliamentary Debates*, Vol 105, 25 Jul 1940 - 16 Oct 1940, pp505-506; 545; 662-663.

¹³ No. 63 of 1946. The amendments covered the qualifications of workmen's inspectors; classified an open cut operation as a mine; raised the age for boys to work in coal mines; and increased the power to make regulations. *Western Australian Parliamentary Debates*, Vol 118, 23 Oct 1946 - 13 Dec 1946, pp2144-2148; 2294-2299; 2471-2474.

¹⁴ No. 26 of 1951. These amendments were a result of an agreement between the unions, coalmine owners and the Mines Department. They covered fencing off mine accidents; language requirements for employment of foreigners; triplicate reports by workmen's inspectors; relieving mine managers whilst on leave; and the authorisation of the Minister to allow anyone to enter and inspect a mine. *Western Australian Parliamentary Debates*, Vol 129, 16 Oct 1951 - 22 Nov 1951, pp91-92; 251-255; 356-357; 449-451; 773-776; 937.

¹⁵ No. 21 of 1962. The Coal Mines Accident Relief Fund was extended to cover any employee who was injured "during the course of his duties". *Western Australian Parliamentary Debates*, Vol 161, 26 Jul 1962 - 13 Sept 1962, pp568-569; 702; 785-786.

¹⁶ No. 14 of 1965. Certain timber cutters were included into the Coal Mines Accident Relief Fund. *Western Australian Parliamentary Debates*, Vol 170, 29 Jul 1965 - 22 Sept 1965, pp318; 368; 606; 671.

¹⁷ No. 137 of 1976. *Western Australian Parliamentary Debates*, Vol 211, 25 Mar 1976 - 13 May 1976, pp719-720. *Western Australian Parliamentary Debates*, Vol 212, 12 May 1976 - 25 Aug 1976, pp985-996; 1005-1008. *Western Australian Parliamentary Debates*, Vol 214, 21 Oct 1976 - 31 Nov 1976, pp4347-4358; 4540.

competency", with any open cut mining experience, not necessarily in the coal mines. It was discovered that the union's opposition to this amendment was unfounded, as any open cut mine is defined as a coal mine under the Act. Apart from this issue, the remaining amendments passed in 1976 were minor.¹⁸

In 1985, certain discriminatory provisions in the Act against women were removed.¹⁹ Another amendment in 1985 made The Coal Mines Accident Relief Fund Trust subject to the provisions of the *Financial Administration and Audit Act 1985*.²⁰ Amendments to the Act in 1990²¹ were aimed at keeping the Act up to date with current times. The 1990 amendments allowed a mine manager to obtain an open cut mine manager's certificate of competency, without the requirement of three years of experience solely in open cut mining, in the coal industry. This was not a contentious issue in 1990, unlike 1976. Another amendment introduced a certificate for open cuts similar to the underground second class certificate. Yet another amendment changed the restriction on working hours underground from seven to eight hours.

In 1992, those provisions using the phrase 'with hard labour' as part of the penalty under the Act, were removed in legislation that applied to a number of statutes in Western Australia.²²

¹⁸ No. 37 of 1976. These amendments covered the composition of the board of examiners; voting requirements for a workmen's inspector; an increase in penalties; and auditing the Accident Relief Fund. *Western Australian Parliamentary Debates*, Vol 211, 25 Mar 1976 - 13 May 1976, pp719-720. *Western Australian Parliamentary Debates*, Vol 212, 12 May 1976 - 25 Aug 1976, pp985-996; 1005-1008. *Western Australian Parliamentary Debates*, Vol 214, 21 Oct 1976 - 31 Nov 1976, pp4347-4358; 4540.

¹⁹ No. 6 of 1985. *Western Australian Parliamentary Debates*, Vol 253, 19 Feb 1985 - 27 Mar 1985, pp188; 711-712; 830

²⁰ No. 98 of 1985.

²¹ No. 2 of 1990. *Western Australian Parliamentary Debates*, Vol 283, 29 May - 26 June 1990, pp2051-2067. *Western Australian Parliamentary Debates*, Vol 284, 26 June 1990 - 21 Aug 1990, pp2898-2904.

²² *Criminal Law Amendment Act (No 2) 1992*; No 51 of 1992.

In 1994 some consequential changes were made to the Act, as a result of the introduction of the *Public Sector Management Act 1994*.²³ Later on in the same year, the *Mines Safety and Inspection Act 1994* was introduced and passed by the parliament. Many of the provisions were similar to the *Mines Regulation Act 1946* (as amended to 1994). It repealed the *Coals Mines Regulation Act 1946* and the *Mines Safety and Inspection Act 1946* and brought the administration of mine safety in all types of mines under one administrative body and one piece of legislation.

The genesis for the incorporation of coal mines safety into general mine safety appears to be the Kelly report.²⁴ The Kelly report (an enquiry into occupational, health and safety in the mining industry in Western Australia) argued it was unnecessary for legislation to specifically cover the coal mining industry.²⁵ The enquiry suggested that the revised *Coal Mines Regulation Act 1946* would require little modification for it to pertain to all mining operations, however, if separate provisions were required for coal mining, they could easily be incorporated into the Act or the regulations.²⁶ The Kelly report made the following recommendation:

A single statute to cover the whole of the mining industry would contribute towards uniformity where it is desirable and would facilitate the adoption and maintenance of a common approach to the implementation and enforcement of health and safety legislation.²⁷

²³ *Acts Amendment (Public Sector Management) Act 1994*, No 32 of 1994.

²⁴ Kelly, E.R., (1991), *Enquiry into Occupational Health and Safety in the Mining Industry in Western Australia*.

²⁵ Kelly, E.R., (1991), *Enquiry into Occupational Health and Safety in the Mining Industry in Western Australia*, Vol 1, pp75.

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Before the provisions repealing the *Coal Mines Regulation Act 1946* came into force, the Act was amended for its last time, with a relatively minor amendment to the Coal Mines Board's power in relation to costs and expenses.²⁸

The *Mines Safety and Inspection Act 1994* was finally proclaimed to come into effect on 9th December 1995 and had the effect of bringing to an end the *Coal Mines Regulation Act 1946*. As a result the separation of coal mining safety away from general mining that was instigated in 1902, went around a complete circle.

²⁸ Section 8 *Acts Amendment (Fines, Penalties and Infringement Notices Act 1994*; No 92 of 1994.