

**Reprint
as at 16 December 2013**



Mines Rescue Trust Act 1992

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

Mines Rescue Trust Act 1992: repealed, on 16 December 2013, by section 26 of the Mines Rescue Act 2013 (2013 No 96).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

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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Mines Rescue Act 2013

Public Act 2013 No 96
Date of assent 18 November 2013
Commencement see section 2

1 Title

This Act is the Mines Rescue Act 2013.

2 Commencement

This Act comes into force on 16 December 2013.

3 Purpose

- (1) The purpose of Part 1 is to provide for the Mines Rescue Trust Board and its role in responding to, and in ensuring capacity and readiness to respond to, emergencies at certain mining operations.
- (2) The purpose of Part 2 is to provide for an effective and co-ordinated response in the event of an emergency at an underground mining operation.

Part 2

Emergency response

25 Application, savings, and transitional provisions

The application, savings, and transitional provisions set out in the Schedule have effect for the purposes of this Act.

Schedule

s 25

Application, savings, and transitional provisions

1 Interpretation

In this schedule, unless the context otherwise requires,—
appointed day means the date specified in the notice published in the *Gazette* under section 7

Trust Board means the Board approved under section 3 of the Mines Rescue Trust Act 1992.

Transitional provisions

2 Trust Board continues until appointed day

- (1) Until the appointed day, the Trust Board and any other person has, and may perform or exercise, the functions, responsibilities, duties, and powers conferred by the Mines Rescue Trust Act 1992 and the provisions of that Act are deemed to continue in force to the extent necessary for the performance or exercise of those functions, responsibilities, duties, and powers.
- (2) On and from the appointed day, neither the Trust Board nor any other person has any functions, responsibilities, duties, or powers under the Mines Rescue Trust Act 1992.

3 Money payable under Mines Rescue Trust Act 1992

- (1) Despite the repeal of the Mines Rescue Trust Act 1992 by section 26, sections 7, 8, and 9 of that Act are to be treated as continuing in force until the appointed day.
 - (2) Any amount of money that immediately before the appointed day was payable to the Trust Board under section 7 of the Mines Rescue Trust Act 1992 is, on and after the appointed day, payable to the board as if it were a levy payable under regulations made under section 10.
 - (3) Despite the repeal of the Mines Rescue Trust Act 1992, the Trust Board must, within 3 months of the appointed day, give the chief executive independently audited accounts of the Trust Board's income and expenditure under section 7 of the Mines Rescue Trust Act 1992 for the period beginning on the occurrence of 1 April immediately preceding the repeal of that Act and ending at the close of the day before the appointed day.
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Reprints notes

1 *General*

This is a reprint of the Mines Rescue Trust Act 1992 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Mines Rescue Act 2013 (2013 No 96): section 26
Criminal Procedure Act 2011 (2011 No 81): section 413
