

## LEGISLATION UPDATE

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### EXEMPTIONS FROM CERTAIN VENTILATION CONTROL SYSTEM REQUIREMENTS

The aim of this update is to clarify the operation of Clause 71(2)(e) of the Coal Mines (Underground) Regulation 1999.

This clause contains one of the requirements for the ventilation control system which a mine manager must ensure is developed and implemented under the regulation. Specifically it requires that the system provide for the maintenance of return airways in an accessible condition.

This has resulted in applications for exemption from this clause in relation to bleeder ventilation through the goaf.

A recognised principle for interpreting legislation is to adhere to the grammatical and ordinary sense of the words unless that would lead to some absurdity, in which case the grammatical and ordinary sense of the words may be modified so as to avoid that absurdity, but no further.

It is clearly impractical to maintain goaf areas in an accessible condition. To read the regulation so that it requires goafs to be accessible produces the type of absurd result anticipated in the principle outlined above. Those who are concerned that the definition of 'roadway' contained in the Act may be brought into play should bear in mind that the definitions in section 5 are predicated by "except in so far as the context or subject-matter otherwise indicates or requires".

Taking all this into account there is no real need seen for exemptions of the type being sought.

Where relevant, mine managers might make it clear in ventilation control systems that they do not provide for maintaining goafs in an accessible condition.

### PROTECTION AGAINST EARTH FAULT

Clause 143 of the Coal Mines (Underground) Regulation 1999 states:

Electrical protection must be provided to prevent the establishment of electric supply to explosion protected mobile or portable electrical apparatus at a mine in the event of an earth fault on the flexible cable supplying the apparatus.

This clause should be read to mean explosion protected mobile electrical apparatus OR (inclusive) explosion protected portable electrical apparatus.

In addition, nothing prevents this form of protection from being used in other applications.

**FURTHER INFORMATION CAN BE OBTAINED FROM MR PAUL HEALEY - (02) 4942 2300  
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