

# LEGISLATION UPDATE

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## EMPLOYEE PARTICIPATION IN HEALTH AND SAFETY IN COAL MINES.

Employee participation is seen as an essential ingredient to effective OH&S practice. This is no less the case in the mining industry. There have been many investigations into mining accidents which reveal after the event that had the workforce better understood vital signs to look for, or had their reporting of them been better heeded, then unfortunate outcomes may have been prevented.

NSW health and safety law recognises it as vital that important information be brought to the attention of management and that such information might not always be welcome, bringing as it sometimes does a range of problems. There are, therefore, certain powers and protections in the law to enable the bringing of information and to protect 'the messenger' against disadvantage in employment arising from their raising genuine concerns.

Section 26 of the Occupational Health and Safety Act 1983 (OH&S Act) is relevant in that it provides protection against disadvantage to all employees who make a complaint about safety or health matters or who are a member of an occupational health and safety committee or who exercise the proper functions of the member of such a committee. The importance which the law places on these protections is indicated by the current penalty level for offences against the section - \$27,500 for a corporation and \$16,500 for an individual.

The Coal Mines Regulation Act 1982 (CMRA) supports the principles of workforce vigilance and reporting through the particular means of inspections of behalf of persons employed at a mine through elected representatives - check inspectors.

Whether or not somebody is elected as a check inspector for a mine is entirely a matter for persons employed at the mine - it is not a prerogative of mine management. It should also be borne in mind that, provided they are an employee, check inspectors have the protection of section 26 of the OH&S Act. In addition, at section 160(a) the CMRA creates an offence for wilful interference with "... any official of the mine or other person exercising his functions under this Act ..." (emphasis added).

Everybody working at coal mines or declared plant has a duty through clause 15 of the Coal Mines (General) Regulation 1999 to examine their working place for dangers, to eliminate any danger they discover, or, if they cannot eliminate it, to report it.

All in the coal mining industry are reminded of the importance of effective information gathering for the protection of health and safety, and the relevant aspects of the legislation which support this.

**FURTHER INFORMATION CAN BE OBTAINED FROM MR CHRIS ELLICOTT - (02) 9901 8412  
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