



## Health and Safety Bulletin No. 5

### Fraudulent qualifications in the WA mining industry

Date: 20 September 2022

#### Background

Persons conducting businesses or undertakings (PCBUs), including mine operators, have an obligation to carefully assess the validity of qualifications, supporting documentation and training competency certificates, submitted by candidates applying for jobs in the Western Australian mining industry.

Competency of all workers, including supervisors and managers, is critical in ensuring the health and safety of everyone at or in the vicinity of a mine. WorkSafe Mines Safety takes allegations of workers providing fraudulent qualifications or other documents very seriously and prosecution action will be commenced where appropriate.

In 2010, the Department successfully prosecuted a manager at a mine in the Pilbara who was found to be acting as a quarry manager after providing a forged quarry manager's certificate of competency.

#### Summary of hazard

Due to the potentially hazardous nature of mining, PCBUs must confirm that workers have the appropriate skills and training and are assessed as competent to perform tasks and activities safely.

Evidence obtained by WorkSafe Mines Safety has identified a number of recent instances where workers have gained employment within the mining industry by providing allegedly fraudulent documents, including:

- underground supervisor's certificate of competency
- paramedic qualifications
- mining engineering degree
- Certificate IV in Work Health and Safety
- national police clearance.

Identified cases of alleged fraud will be referred to the WA Police. Under the Criminal Code, any person who with the intent to defraud forges a record, or utters (uses) a forged record, is guilty of a crime, subject to:

- 7 years imprisonment
- 2 years imprisonment and a fine of \$24,000 for a summary conviction.

## Work Health and Safety requirements

The *Work Health and Safety Act 2020* and the *Work Health and Safety (Mines) Regulations 2022* place duties regarding the competency of workers upon PCBUs, including the mine operator, as well as workers at a mine.

Act or Regulation	Duty	Penalty for non-compliance
s. 268(1) Offence to give false or misleading information	A person must not give information in complying or purportedly complying with the WHS Act that they know is false or misleading, or omit any matter or thing without which, the information is misleading	\$12,500 for an individual \$55,000 for a body corporate
r. 675BB(b) Duty of PCBU to ensure competency of workers	A PCBU at a mine must ensure their workers are assessed before commencing work at a mine to ensure they are competent to perform the tasks required and to operate any plant required	\$4,200 for an individual \$21,000 for body corporate
r. 675ZB* Duty of mine operator in relation to statutory positions at mines	The mine operator must ensure that a person does not carry out the function of a statutory position, or is an alternate for a key position, unless they meet the eligibility requirements, including having the appropriate qualifications	\$7,000 for an individual \$35,000 for a body corporate
r. 675ZX(2) Giving false or misleading information or documentation about eligibility for statutory position	The mine operator or site senior executive must, as soon as possible after becoming aware of the false or misleading information, revoke the person's appointment to the statutory position or as an alternate for the key statutory position	\$4,200 for an individual \$21,000 for a body corporate
r. 675ZY Statutory position-holder to carry out functions	A person appointed to a statutory position for a mine must carry out the function of that position. If they are unable, such as by not meeting the eligibility criteria, they must inform the mine operator or the site senior executive and explain why they are unable to carry out the function	\$7,000 for an individual \$35,000 for a body corporate
*Note: The mine operator does not commit an offence if the person who has been appointed to the position, or is an alternate for a key statutory position, is not appropriate for the position, and has given the mine operator or senior site executive of a mine or the regulator information or a document that contains false or misleading information that purports to show that the person is an appropriate person for the statutory position or as an alternate for the key statutory position.		

## Actions required

WorkSafe recommends PCBUs and mine operators at mine sites:

- check training and recruitment documentation and assess exposure to the possibility of fraudulent qualifications or supporting documents
- develop a system of work for checking documents submitted during the recruitment process before workers are employed, including requesting and checking original documents rather than photocopies.

Fraudulent certificates and qualifications may have a person's name printed off-centre or in a different font, or may look like they have been scanned and are blurry and difficult to read.

Anyone who has concerns about the validity of qualifications or training certificates should verify the details by contacting the provider that issued the document or the Australian Skills Quality Authority who regulate vocational education and training providers and accredit courses.

## References and further information

Visit the WorkSafe website for more information on [statutory positions](#) and certificates.