



Queensland

Mining and Other Legislation (Safety and Health) Amendment Regulation (No. 1) 2008

Subordinate Legislation 2008 No. 317

made under the

Coal Mining Safety and Health Act 1999

Explosives Act 1999

Mining and Quarrying Safety and Health Act 1999

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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Mining and Other Legislation (Safety and Health) Amendment Regulation (No. 1) 2008*.

2 Commencement

This regulation commences on 1 October 2008.

Part 2 Amendment of Coal Mining Safety and Health Regulation 2001

3 Regulation amended in pt 2

This part amends the *Coal Mining Safety and Health Regulation 2001*.

4 Insertion of new ch 2, pt 2A

After section 12B—

insert—

‘Part 2A Safety and health fee

‘12C Definitions for pt 2A

‘In this part—

responsible person, for a coal mine, means the responsible person for the coal mine within the meaning of section 12D.

safety and health census see section 12F(1).

safety and health fee see section 12E(1).

‘12D Meaning of *responsible person*

- ‘(1) A person is a *responsible person* for a coal mine if the person is—
- (a) for a coal mine operated under a mining tenure—
 - (i) if the coal mine operator is an individual—the holder of the mining tenure for the coal mine; or
 - (ii) if the coal mine operator is a corporation—the coal mine operator for the coal mine; or
 - (b) for a place that is a coal mine under the Act, section 9(1)(c)—the person in control of the coal mine.
- ‘(2) However, if the mining tenure mentioned in subsection (1)(a)(i) is held by more than 1 person, for the purpose of giving or receiving notices under this part, including for giving a safety and health census under section 12F, the responsible person for the coal mine is—
- (a) if a person has been specified under the *Mineral Resources Act 1989* as the person on whom any notice may be served on behalf of the holders of the mining tenure—the person specified; or

Note—

See the *Mineral Resources Act 1989*, sections 133(1)(c), 183(1)(c) and 245(1)(c).

- (b) otherwise—any person who is a holder of the mining tenure.

‘12E Payment of safety and health fee

- ‘(1) The responsible person for a coal mine must pay a fee (a *safety and health fee*) to cover the cost of the department’s activities carried out for the purposes of safety and health for coal mining operations during each financial year.

[s 4]

- ‘(2) The amount of the safety and health fee is—
- (a) if the number of coal mine workers working at the coal mine during the financial year is not more than 10—\$100 for each coal mine worker working at the coal mine during the financial year; or
 - (b) if the number of coal mine workers working at the coal mine during the financial year is more than 10—\$804 for each coal mine worker working at the coal mine during the financial year.
- ‘(3) The amount of the safety and health fee must be worked out using information included in each safety and health census given to the chief executive under section 12F for the financial year for the coal mine.
- ‘(4) The chief executive must give the responsible person an invoice for the amount of the safety and health fee on or before 10 October after the end of the financial year.
- ‘(5) The amount of the safety and health fee must be paid by the responsible person on or before 31 October after the end of the financial year.

Maximum penalty—100 penalty units.

‘12F Safety and health census to be given at the end of each quarter

- ‘(1) The responsible person for a coal mine must give the chief executive, within 20 days after the end of each quarter, a written notice (a *safety and health census*) stating the number of coal mine workers working at the coal mine during the quarter.

Maximum penalty—100 penalty units.

- ‘(2) Despite subsection (1), the responsible person may give the safety and health census after the period mentioned in the subsection ends if, before the period ends—

-
- (a) the responsible person applies to the chief executive in writing to extend the period to give the safety and health census; and
 - (b) the chief executive gives the responsible person a written notice stating that the responsible person may give the safety and health census before the end of a day stated in the notice for that purpose.
- ‘(3) If the responsible person is given written notice under subsection (2)(b), the responsible person must give the chief executive the safety and health census before the end of the day stated in the notice for giving the census.
- Maximum penalty—100 penalty units.
- ‘(4) The safety and health census must be in the approved form.

‘12G Notice may be given if safety and health census not given or is inadequate

- ‘(1) This section applies if the chief executive reasonably believes, based on information available to the chief executive, that a responsible person for a coal mine—
- (a) has not given a safety and health census under section 12F; or
 - (b) has given an incomplete safety and health census; or
 - (c) has given a safety and health census containing information that is incorrect.
- ‘(2) The chief executive may give the responsible person a notice—
- (a) stating each of the following—
 - (i) the ground mentioned in subsection (1)(a), (b) or (c) on which the chief executive reasonably believes this section applies in relation to the responsible person;
 - (ii) if the ground is the ground mentioned in subsection (1)(c)—the information the chief executive reasonably believes is incorrect;

[s 4]

- (iii) the amount of the safety and health fee the chief executive reasonably believes is payable by the responsible person for the coal mine;
 - (iv) the facts and circumstances forming the basis for the beliefs mentioned in subparagraphs (i) to (iii); and
 - (b) inviting the responsible person to give to the chief executive, within the reasonable period stated in the notice, a written submission about why the responsible person for the coal mine should not be invoiced for the amount mentioned in paragraph (a)(iii).
- ‘(3) The chief executive must consider any submissions given by the responsible person within the period stated in the notice.
- ‘(4) If, after complying with subsection (3), the chief executive is satisfied an amount of a safety and health fee is payable by the responsible person, the chief executive may give the responsible person an invoice for the fee.
- ‘(5) Subsection (4) applies even if the responsible person has already been given an invoice for, or paid, a different amount for the fee.
- ‘(6) The responsible person must pay the amount of the safety and health fee stated in the invoice within 30 days after receiving the invoice.

‘12H Fee for late safety and health census

- ‘(1) This section applies if a responsible person for a coal mine does not give a safety and health census for a quarter before either of the following days—
 - (a) if the chief executive has given the responsible person a written notice mentioned in section 12F(2)(b)—the day after the day stated in the notice for giving the safety and health census;
 - (b) otherwise—the day that is 21 days after the end of the quarter.

- ‘(2) The obligation under section 12F to give a safety and health census continues to apply until that section is complied with.
- ‘(3) A late fee of \$100 applies and is payable as well as any penalty imposed under section 12F(1) or (3).

‘12I Interest payable on unpaid fees

- ‘(1) This section applies if a responsible person for a coal mine does not pay any amount of a safety and health fee under section 12E or 12G.
- ‘(2) The responsible person must pay interest on the unpaid amount at the rate of 15%.
- ‘(3) The interest must be calculated as simple interest.
- ‘(4) The interest payable on the unpaid amount may be recovered by the chief executive as a debt.

‘12J Refund of overpayment of safety and health fee

- ‘(1) If a safety and health fee is overpaid by a responsible person for a coal mine, the chief executive must refund the amount of the overpayment to the responsible person.
- ‘(2) No interest is payable on the amount refunded.’.

5 Replacement of s 373 (Repeal)

Section 373—

omit, insert—

[s 6]

‘Chapter 6 Transitional provision for Mining and Other Legislation (Safety and Health) Amendment Regulation (No. 1) 2008

‘373 Provision about safety and health fee payable on or before 31 October 2008

- ‘(1) This section applies in relation to the safety and health fee payable by a responsible person for a coal mine on or before 31 October 2008 under section 12E.
- ‘(2) Despite section 12E(2), the amount payable for the safety and health fee is—
- (a) if the number of coal mine workers working at the coal mine during the financial year ending 30 June 2008 is 10 or less—\$75 for each coal mine worker working at the coal mine during the financial year; or
 - (b) if the number of coal mine workers working at the coal mine during the financial year ending 30 June 2008 is 11 or more—\$603 for each coal mine worker working at the coal mine during the financial year.
- ‘(3) Despite section 12E(3), the amount payable for the fee must be worked out using information stated in a document titled ‘Queensland Mining Industry Annual Census Form’, given to the department for the financial year ending 30 June 2008 for the coal mine.’.

6 Amendment of sch 9 (Dictionary)

Schedule 9—

insert—

‘*quarter* means a 3 month period ending on 30 September, 31 December, 31 March or 30 June.

responsible person, for a coal mine, see section 12D.

safety and health census, for chapter 2, part 2A, see section 12F(1).

safety and health fee see section 12E(1).'

Part 3 **Amendment of Explosives Regulation 2003**

7 **Regulation amended in pt 3**

This part amends the *Explosives Regulation 2003*.

8 **Insertion of new pt 10A**

After section 146—

insert—

‘Part 10A **Safety and health fee**

‘146A Definitions for pt 10A

‘In this part—

explosives worker means any of the following persons—

- (a) an individual who is the holder of an authority;
- (b) an individual who is a partner in the partnership that is the holder of an authority;
- (c) an employee of, or a contractor engaged by, the holder of an authority;
- (d) an employee of a contractor who is engaged by the holder of an authority.

safety and health census see section 146C(1).

safety and health fee see section 146B(1).

[s 8]

‘146B Payment of safety and health fee

- ‘(1) The holder of an authority must pay a fee (a *safety and health fee*) to cover the cost of the department’s activities carried out for the purposes of safety and health for explosives during each financial year.
- ‘(2) The amount of the safety and health fee is—
 - (a) if the number of explosives workers working under the authority during the financial year is not more than 10—\$100 for each explosives worker working under the authority during the financial year; or
 - (b) if the number of explosives workers working under the authority during the financial year is more than 10—\$804 for each explosives worker working under the authority during the financial year.
- ‘(3) The amount of the safety and health fee must be worked out using information included in each safety and health census given to the chief executive by the holder of the authority under section 146C for the financial year.
- ‘(4) The chief executive must give the holder of the authority an invoice for the amount of the safety and health fee on or before 10 October after the end of the financial year.
- ‘(5) The amount of the safety and health fee must be paid by the holder of the authority on or before 31 October after the end of the financial year.

Maximum penalty—100 penalty units.

‘146C Safety and health census to be given at the end of each quarter

- ‘(1) The holder of an authority must give the chief executive, within 20 days after the end of each quarter, a written notice (a *safety and health census*) stating the number of explosives workers working under the authority during the quarter.

Maximum penalty—100 penalty units.

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- ‘(2) Despite subsection (1), the holder of the authority may give the safety and health census after the period mentioned in the subsection ends if, before the period ends—
- (a) the holder of the authority applies to the chief executive in writing to extend the period to give the safety and health census; and
 - (b) the chief executive gives the holder of the authority a written notice stating that the holder of the authority may give the safety and health census before the end of a day stated in the notice for that purpose.
- ‘(3) If the holder of the authority is given written notice under subsection (2)(b), the holder of the authority must give the chief executive the safety and health census before the end of the day stated in the notice for giving the census.
- Maximum penalty—100 penalty units.
- ‘(4) The safety and health census must be in the approved form.

‘146D Notice may be given if safety and health census not given or is inadequate

- ‘(1) This section applies if the chief executive reasonably believes, based on information available to the chief executive, that a holder of an authority—
- (a) has not given a safety and health census under section 146C; or
 - (b) has given an incomplete safety and health census; or
 - (c) has given a safety and health census containing information that is incorrect.
- ‘(2) The chief executive may give the holder of the authority a notice—
- (a) stating each of the following—
 - (i) the ground mentioned in subsection (1)(a), (b) or (c) on which the chief executive reasonably believes this section applies in relation to the holder of the authority;

[s 8]

- (ii) if the ground is the ground mentioned in subsection (1)(c)—the information the chief executive reasonably believes is incorrect;
 - (iii) the amount of the safety and health fee the chief executive reasonably believes is payable by the holder of the authority;
 - (iv) the facts and circumstances forming the basis for the beliefs mentioned in subparagraphs (i) to (iii); and
 - (b) inviting the holder of the authority to give the chief executive, within the reasonable period stated in the notice, a submission as to why the holder of the authority should not be invoiced for the amount mentioned in paragraph (a)(iii).
- ‘(3) The chief executive must consider any submissions given by the holder of the authority within the period stated in the notice.
- ‘(4) If, after complying with subsection (3), the chief executive is satisfied an amount of a safety and health fee is payable by the holder of the authority, the chief executive may give the holder of the authority an invoice for the fee.
- ‘(5) Subsection (4) applies even if the holder of the authority has already been given an invoice for, or paid, a different amount for the fee.
- ‘(6) The holder of the authority must pay the amount of the safety and health fee stated in the invoice within 30 days after receiving the invoice.

‘146E Fee for late safety and health census

- ‘(1) This section applies if a holder of an authority does not give a safety and health census for a quarter before either of the following days—
- (a) if the chief executive has given the holder of the authority a written notice mentioned in section

146C(2)(b)—the day after the day stated in the notice for giving the safety and health census;

(b) otherwise—the day that is 21 days after the end of the quarter.

‘(2) The obligation under section 146C to give a safety and health census continues to apply until that section is complied with.

‘(3) A late fee of \$100 applies and is payable as well as any penalty imposed under section 146C(1) or (3).

‘146F Unpaid fees

‘(1) This section applies if the holder of an authority does not pay any amount of a safety and health fee under section 146B or 146D.

‘(2) The holder of the authority must pay interest on the unpaid amount at the rate of 15%.

‘(3) The interest must be calculated as simple interest.

‘(4) The unpaid amount, and any interest payable on the unpaid amount, may be recovered by the chief executive as a debt.

‘146G Refund of overpayment of safety and health fee

‘(1) If a safety and health fee is overpaid by a holder of an authority, the chief executive must refund the amount of the overpayment to the holder of the authority.

‘(2) No interest is payable on the amount refunded.’.

9 Replacement of pt 12, hdg (Transitional provisions for Explosives Amendment Regulation (No. 1) 2006)

Part 12, heading—

omit, insert—

[s 10]

‘Part 12 Transitional provisions

‘Division 1 Transitional provisions for Explosives Amendment Regulation (No. 1) 2006’.

10 Insertion of new pt 12, div 2

After section 157—

insert—

‘Division 2 Transitional provision for Mining and Other Legislation (Safety and Health) Amendment Regulation (No. 1) 2008

‘158 Provision about safety and health fee payable on or before 31 October 2008

- ‘(1) This section applies in relation to a safety and health fee payable by the holder of an authority on or before 31 October 2008 under section 146B.
- ‘(2) Despite section 146B(2) and (3), the amount payable for the safety and health fee is \$75.’.

11 Amendment of sch 7 (Dictionary)

Schedule 7—

insert—

‘explosives worker see section 146A.

quarter means a 3 month period ending on 30 September, 31 December, 31 March or 30 June.

safety and health census, for part 10A, see section 146C(1).

safety and health fee see section 146B(1).’.

Part 4 Amendment of Mining and Quarrying Safety and Health Regulation 2001

12 Regulation amended in pt 4

This part amends the *Mining and Quarrying Safety and Health Regulation 2001*.

13 Insertion of new ch 2, pt 2A

After section 11—

insert—

‘Part 2A Safety and health fee

‘11A Definitions for pt 2A

‘In this part—

responsible person, for a mine, means the responsible person for the mine within the meaning of section 11B.

safety and health census see section 11D(1).

safety and health fee see section 11C(1).

‘11B Meaning of *responsible person*

‘(1) A person is a *responsible person* for a mine if the person is—

(a) for a mine operated under a mining tenure, other than a mining tenure that is a prospecting permit—

(i) if the operator for the mine is an individual—the holder of the mining tenure for the mine; or

(ii) if the operator for the mine is a corporation—the operator for the mine; or

(b) for a quarry—the operator for the mine; or

[s 13]

- (c) for a place that is a mine under the Act, section 9(1)(c)—the person in control of the mine.
- ‘(2) However, if the mining tenure mentioned in subsection (1)(a)(i) is held by more than 1 person, for the purpose of giving or receiving notices under this part, including for giving a safety and health census under section 11D, the responsible person for the mine is—
- (a) if a person has been specified under the *Mineral Resources Act 1989* as the person on whom any notice may be served on behalf of the holders of the mining tenure—the person specified; or
- Note—*
- See the *Mineral Resources Act 1989*, sections 61(1)(c), 133(1)(c), 183(1)(c) and 245(1)(c).
- (b) otherwise—any person who is a holder of the mining tenure.

‘11C Payment of safety and health fee

- ‘(1) The responsible person for a mine must pay a fee (a ***safety and health fee***) to cover the cost of the department’s activities carried out for the purposes of safety and health for operations during each financial year.
- ‘(2) The amount of the safety and health fee is—
 - (a) if the number of workers working at the mine during the financial year is not more than 10—\$100 for each worker working at the mine during the financial year; or
 - (b) if the number of workers working at the mine during the financial year is more than 10—\$804 for each worker working at the mine during the financial year.
- ‘(3) The amount of the safety and health fee must be worked out using information included in each safety and health census given to the chief executive under section 11D for the financial year for the mine.

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- ‘(4) The chief executive must give the responsible person an invoice for the amount of the safety and health fee on or before 10 October after the end of the financial year.
 - ‘(5) The amount of the safety and health fee must be paid by the responsible person on or before 31 October after the end of the financial year.

Maximum penalty—100 penalty units.

‘11D **Safety and health census to be given at the end of each quarter**

- ‘(1) The responsible person for a mine must give the chief executive, within 20 days after the end of each quarter, a written notice (a *safety and health census*) stating the number of workers working at the mine during the quarter.

Maximum penalty—100 penalty units.

- ‘(2) Despite subsection (1), the responsible person may give the safety and health census after the period mentioned in the subsection ends if, before the period ends—
 - (a) the responsible person applies to the chief executive in writing to extend the period to give the safety and health census; and
 - (b) the chief executive gives the responsible person a written notice stating that the responsible person may give the safety and health census before the end of a day stated in the notice for that purpose.

- ‘(3) If the responsible person is given written notice under subsection (2)(b), the responsible person must give the chief executive the safety and health census before the end of the day stated in the notice for giving the census.

Maximum penalty—100 penalty units.

- ‘(4) The safety and health census must be in the approved form.

[s 13]

‘11E Notice may be given if safety and health census not given or is inadequate

- ‘(1) This section applies if the chief executive reasonably believes, based on information available to the chief executive, that a responsible person for a mine—
- (a) has not given a safety and health census under section 11D; or
 - (b) has given an incomplete safety and health census; or
 - (c) has given a safety and health census containing information that is incorrect.
- ‘(2) The chief executive may give the responsible person a notice—
- (a) stating each of the following—
 - (i) the ground mentioned in subsection (1)(a), (b) or (c) on which the chief executive reasonably believes this section applies in relation to the responsible person;
 - (ii) if the ground is the ground mentioned in subsection (1)(c)—the information the chief executive reasonably believes is incorrect;
 - (iii) the amount of the safety and health fee the chief executive reasonably believes is payable by the responsible person for the mine;
 - (iv) the facts and circumstances forming the basis for the beliefs mentioned in subparagraphs (i) to (iii); and
 - (b) inviting the responsible person to give to the chief executive, within the reasonable period stated in the notice, a written submission about why the responsible person for the mine should not be invoiced for the amount mentioned in paragraph (a)(iii).
- ‘(3) The chief executive must consider any submissions given by the responsible person within the period stated in the notice.

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- ‘(4) If, after complying with subsection (3), the chief executive is satisfied an amount of a safety and health fee is payable by the responsible person, the chief executive may give the responsible person an invoice for the fee.
 - ‘(5) Subsection (4) applies even if the responsible person has already been given an invoice for, or paid, a different amount for the fee.
 - ‘(6) The responsible person must pay the amount of the safety and health fee stated in the invoice within 30 days after receiving the invoice.

‘11F Fee for late safety and health census

- ‘(1) This section applies if a responsible person does not give a safety and health census for a quarter before either of the following days—
 - (a) if the chief executive has given the responsible person a written notice mentioned in section 11D(2)(b)—the day after the day stated in the notice for giving the safety and health census;
 - (b) otherwise—the day that is 21 days after the end of the quarter.
- ‘(2) The obligation under section 11D to give a safety and health census continues to apply until that section is complied with.
- ‘(3) A late fee of \$100 applies and is payable as well as any penalty imposed under section 11D(1) or (3).

‘11G Interest payable on unpaid fees

- ‘(1) This section applies if a responsible person for a coal mine does not pay any amount of a safety and health fee under section 11C or 11E.
- ‘(2) The responsible person must pay interest on the unpaid amount at the rate of 15%.
- ‘(3) The interest must be calculated as simple interest.

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- ‘(4) The interest payable on the unpaid amount may be recovered by the chief executive as a debt.

‘11H Refund of overpayment of safety and health fee

- ‘(1) If a safety and health fee is overpaid by a responsible person for a mine, the chief executive must refund the amount of the overpayment to the responsible person.
- ‘(2) No interest is payable on the amount refunded.’.

14 Insertion of new ch 4

After section 151—

insert—

**‘Chapter 4 Transitional provision for
Mining and Other
Legislation (Safety and
Health) Amendment
Regulation (No. 1) 2008**

**‘152 Provision about safety and health fee payable on or
before 31 October 2008**

- ‘(1) This section applies in relation to the safety and health fee payable by a responsible person for a mine on or before 31 October 2008 under section 11C.
- ‘(2) Despite section 11C(2), the amount payable for the safety and health fee is—
- (a) if the number of workers working at the mine during the financial year ending 30 June 2008 is 10 or less—\$75 for each worker working at the mine during the financial year; or
- (b) if the number of workers working at the mine during the financial year ending 30 June 2008 is 11 or more—\$603

for each worker working at the mine during the financial year.

- ‘(3) Despite section 11C(3), the amount payable for the fee must be worked out using information stated in a document titled ‘Queensland Mining Industry Annual Census Form’, given to the department for the financial year ending 30 June 2008 for the mine.’.

15 Amendment of sch 7 (Dictionary)

Schedule 7—

insert—

‘**quarter** means a 3 month period ending on 30 September, 31 December, 31 March or 30 June.

responsible person, for a mine, see section 11B.

safety and health census, for chapter 2, part 2A, see section 11D(1).

safety and health fee see section 11C(1).’.

ENDNOTES

- 1 Made by the Governor in Council on 25 September 2008.
- 2 Notified in the gazette on 26 September 2008.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Mines and Energy.