

# Mineral and Energy Resources and Other Legislation Amendment Bill 2020

## Explanatory Notes

### FOR

## Amendments during consideration in detail to be moved by the Honourable Dr Anthony Lynham MP

### Title of the Bill

The short title of the Bill is the Mineral and Energy Resources and Other Legislation Amendment Bill 2020 (the Bill).

### Objectives of the Amendments

The objectives of the amendments are to:

- Implement the fourth, fifth and ninth recommendations of the State Development, Natural Resources and Agricultural Industry Development Committee report on the Bill (Report number 46, 46<sup>th</sup> Parliament);
- Correct a drafting error identified in the *Resources Safety and Health Queensland Act 2020*; and
- Correct minor drafting errors in the Bill, including correcting the commencement date for certain water-related provisions.

### Achievement of the Objectives

The following amendments achieve the objectives:

1. Extend the period for compliance with the new statutory office holder requirements in the *Coal Mining Safety and Health Act 1999* to 18 months.
2. Increase the maximum penalty for reprisal offences in the *Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999* to 1,000 penalty units, so that it aligns with the penalty in the *Work Health and Safety Act 2011* for the similar offence.
3. Change the wording of a requirement for distributor-retailers to provide information about infrastructure charges forecast to be 'collected' instead of 'levied'.
4. Correct a minor error in the *Resources Safety and Health Act 2020* amendment of the delegation powers for the Chief Executive Officer (CEO) of Resources Safety and

Health Queensland (RSHQ) in the *Petroleum and Gas (Production and Safety) Act 2004* by inserting the ability for the CEO of RSHQ to delegate their powers under the *Petroleum and Gas (Production and Safety) Act 2004*;

5. Amend the use of the term 'prescribed mineral' to 'prescribed mineral (royalty)' in the Mineral Resources Regulation 2013, to address the double use of the term 'prescribed mineral'; and
6. Correct the commencement of water-related provisions to commence on assent.

## Alternative Ways of Achieving Policy Objectives

There are no alternative means of achieving the policy objectives.

## Estimated Cost for Government Implementation

The estimated administrative cost to government of implementing the proposed amendments is nil.

## Consistency with Fundamental Legislative Principles

The amendments were drafted with regard to fundamental legislative principles and are consistent with fundamental legislative principles.

## Consultation

The amendments relating to the statutory office holders requirements, the reprisal offence penalty, and the requirements for distributor retailers respond to recommendations made by the State Development, Natural Resources and Agricultural Industry Development Committee (the Committee) in its report on the Bill. Stakeholders provided input to the Committee through written submissions and the public hearing on the Bill.

The remaining amendments change provisions in the Bill that have already been the subject of broad stakeholder consultation. They do not alter the overarching policy intent of the Bill, meaning additional consultation was not warranted.

## NOTES ON PROVISIONS

**Amendment 1** amends clause 2 of the Bill to provide that the heading of part 4 and sections 29 and 33; part 14; the heading of part 17 and sections 209 and 210; and part 18 of the Bill, will commence on assent, rather than by proclamation.

**Amendment 2** amends clause 10 of the Bill so that the deferral of the obligation of coal mine operators to ensure employees are appointed to statutory office roles is until 18 months after the commencement; instead of the proposed 12 months. This clause responds to the Committee's recommendation that the period of compliance for the statutory officer holder amendments should be 18 months. This amendment will provide further time for coal mine operators to comply with the new statutory office holder requirements.

**Amendment 3** amends clause 10 of the Bill so that if the appointee is not an employee of a coal mine operator, the appointee is taken to hold a valid appointment only until the day that is 18 months after the commencement; instead of the proposed 12 months. This clause responds to the Committee's recommendation that the period of compliance for the statutory officer holder amendments should be 18 months. It will provide further time for coal mine operators to comply with the new statutory office holder requirements.

**Amendment 4** inserts new clause 15A into the Bill to amend section 275AA(1) of the *Coal Mining Safety and Health Act 1999* to increase the maximum penalty for reprisal offences to 1,000 penalty units. This clause responds to the Committee's recommendation that the maximum penalty for reprisal offences in the Act should be increased so that it aligns with the maximum penalty in the *Work Health and Safety Act 2011* for the similar offence. This will ensure that workers feel safe to make safety complaints, without reprisal action being taken.

**Amendment 5** inserts new clause 161A into the Bill to amend section 254A(1) of the *Mining and Quarrying Safety and Health Act 1999* to increase the maximum penalty for reprisal offences to 1,000 penalty units. This clause responds to the Committee's recommendation that the maximum penalty for reprisal offences in the Act should be increased, so that it aligns with the maximum penalty in the *Work Health and Safety Act 2011* for the similar offence. This will ensure that workers feel safe to make safety complaints, without reprisal action being taken.

**Amendment 6** inserts new clause 205A into the Bill to provide that section 857 of the *Petroleum and Gas (Production and Safety) Act 2004* to correct a minor error in the *Resources Safety and Health Act 2020* to clarify that the Chief Executive Officer of Resources Safety and Health Queensland can delegate their powers under the *Petroleum and Gas (Production and Safety) Act 2004* to an appropriately qualified person.

**Amendment 7** amends clause 212 of the Bill to require the distributor-retailers to provide information about infrastructure charges forecast to be 'collected' instead of 'levied'.

**Amendment 8** amends clause 212 of the Bill to require the distributor-retailers to provide information about infrastructure charges forecast to be 'collected' instead of 'levied'.

**Amendment 9** amends clause 212 of the Bill to require the distributor-retailers to provide information about infrastructure charges forecast to be 'collected' instead of 'levied'.

**Amendment 10** inserts into Schedule 1 (Minor and consequential amendments) three new provisions that have the effect of replacing all existing uses of the term 'prescribed mineral' with 'prescribed mineral (royalty)' under the Mineral Resources Regulation 2013.

Under the Mineral Resources Regulation 2013, the term 'prescribed mineral' is used in relation to the calculation of royalty rates for particular minerals.

However, the Bill includes amendments to the *Mineral Resources Act 1989* that establish a different use and definition for the term 'prescribed mineral'. The details of which minerals are 'prescribed minerals' for this new purpose will be provided for in the Mineral Resources Regulation 2013.

Failure to distinguish between the two 'prescribed mineral' definitions may lead to confusion as to which definition applies. To distinguish between them, clause 7 replaces all existing uses of the term 'prescribed mineral' related to royalty rates with the term 'prescribed mineral (royalty)'.

These amendments do not change the effect of any provisions.

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