

Resources Legislation Amendment Regulation 2019

Explanatory notes for SL 2019 No. 53

made under the

Mineral and Energy Resources (Common Provisions) Act 2014

Mineral Resources Act 1989

Petroleum Act 1923

Petroleum and Gas (Production and Safety) Act 2004

Water Act 2000

General Outline

Short title

Resources Legislation Amendment Regulation 2019

Authorising law

Section 210 of the *Mineral and Energy Resources (Common Provisions) Act 2014*

Section 417 of the *Mineral Resources Act 1989*

Section 149 of the *Petroleum Act 1923*

Section 859 of the *Petroleum and Gas (Production and Safety) Act 2004*

Section 1014 of the *Water Act 2000*

Policy objectives and the reasons for them

The *Resources Legislation Amendment Regulation 2019* (RLA Regulation) has three main policy objectives:

- support amendments made by the *Mineral, Water and Other Legislation Amendment Act 2018* (MWOLA Act)
- amend the *Mineral and Energy Resources (Common Provisions) Regulation 2016*, the *Mineral Resources Regulation 2013* and the *Petroleum and Gas (General Provisions) Regulation 2017* to support the operation of their respective authorising Acts, and
- correct minor punctuation errors and remove redundant definitions.

Achievement of policy objectives

The RLA Regulation achieves the policy objectives by amending the following Regulations:

- *Mineral and Energy Resources (Common Provisions) Regulation 2016*
- *Mineral Resources Regulation 2013*
- *Petroleum and Gas (General Provisions) Regulation 2017*
- *Water Regulation 2016*.

Mineral and Energy Resources (Common Provisions) Regulation 2016

Changes to the *Mineral and Energy Resources (Common Provisions) Regulation 2016* amend the notice requirements for the statutory negotiation process for the negotiation of a conduct and compensation agreement.

Parties will be required to provide, as part of a conference election notice under section 83A of the *Mineral and Energy Resources (Common Provisions) Act 2014*, their contact details and the details of the land proposed to be entered.

Amendments will also require that an arbitration election notice given under section 91A of the *Mineral and Energy Resources (Common Provisions) Act 2014* must state that:

- the party who receives the notice must accept or refuse the request for arbitration within the period mentioned in section 91A(4) of the *Mineral and Energy Resources (Common Provisions) Act 2014*; and
- either party may be legally represented.

The amendments will also prescribe:

- the Resolution Institute as the prescribed Alternative Dispute Resolution (ADR) institute that parties may approach if they cannot agree on an ADR facilitator or ADR type under section 88 of the *Mineral and Energy Resources (Common Provisions) Act 2014*; and
- the Resolution Institute and the Queensland Law Society as the prescribed arbitration institutes that parties may approach if they cannot agree on an arbitrator under section 91A of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Amendments will also require resource authority holders to provide *A Guide to Land Access in Queensland*, published by the Department of Natural Resources, Mines and Energy (the department), to the landholder:

- when giving an initial entry notice; and
- if issuing a landholder with a notice of intent to negotiate a conduct and compensation agreement or deferral agreement.

Amendments will also update cross-referencing as required.

Mineral Resources Regulation 2013

Amendments to the *Mineral Resources Regulation 2013* require a mining claim and mining lease holder to provide a copy of *A Guide to Landholder Compensation for Mining Claims and Mining Leases*, published by the department, within five days of applying to renew a mining claim or mining lease.

The amendments will also prescribe what must be complied with when plugging and abandoning (decommissioning) a water monitoring bore. For section 334ZZS(3)(a) of the *Mineral Resources Act 1989*, the bore will need to be plugged and abandoned in compliance with the 'Minimum construction requirements for water bores in Australia' for bore decommissioning.

The amendments will also prescribe notices and a report that must be lodged by coal or oil shale mining lease holders who are mining coal seam gas or incidental coal seam gas under the authority of the *Mineral Resources Act 1989*. The prescribed report is equivalent to a petroleum well completion report under the *Petroleum and Gas (General Provisions) Regulation 2017*.

The amendments also remove definitions that are no longer required under the *Mineral Resources Regulation 2013*.

Petroleum and Gas (General Provisions) Regulation 2017

Amendments to the *Petroleum and Gas (General Provisions) Regulation 2017* will provide that security in the form of an unconditional security issued by a financial institution may also be lodged for a petroleum tenure as well as other petroleum authorities.

Amendments will clarify reporting requirements for data collected after carrying out a seismic or technical survey of what 'area' means when compiling an index for the report. The area when compiling an index for the report will be amended to mean all or part of the area in which the latest survey was carried out.

The amendments also correct punctuation errors.

Water Regulation 2016

Amendments to the *Water Regulation 2016* will include additional notice requirements. An arbitration election notice given under section 433A of the *Water Act 2000* must state that:

- the party who receives the notice must accept or refuse the request for arbitration within the period mentioned in section 433A(4) of the *Water Act 2000*; and
- either party may be legally represented.

The amendments will also prescribe:

- the Resolution Institute as the prescribed Alternative Dispute Resolution (ADR) institute that parties may approach if they cannot agree on an ADR facilitator or ADR type under section 426 of the *Water Act 2000*; and

- the Resolution Institute and the Queensland Law Society as the prescribed arbitration institutes that parties may approach if they cannot agree on an arbitrator under section 433A of the *Water Act 2000*.

Consistency with policy objectives of authorising law

The *Resources Legislation Amendment Regulation 2019* is consistent with the objectives of the authorising law.

Inconsistency with policy objectives of other legislation

The *Resources Legislation Amendment Regulation 2019* is consistent with the policy objectives of other legislation, including the *Mineral, Water and Other Legislation Amendment Act 2018*.

Benefits and costs of implementation

The *Resources Legislation Amendment Regulation 2019* ensures the effective implementation of the *Mineral, Water and Other Legislation Amendment Act 2018* by prescribing necessary administrative matters. No costs to government are currently envisaged, however, if any operational costs do arise they will be met from existing agency budget allocations.

Consistency with fundamental legislative principles

The *Resources Legislation Amendment Regulation 2019* is consistent with fundamental legislative principles.

Consultation

Consultation was undertaken with targeted stakeholders, including peak bodies for resource development, farming and agriculture, and the environment. The Resolution Institute was consulted on being named as a prescribed ADR institute and prescribed arbitration institute under the *Mineral and Energy Resources (Common Provisions) Act 2014* and the *Water Act 2000*. The Queensland Law Society was consulted on being named as a prescribed arbitration institute under the *Mineral and Energy Resources (Common Provisions) Act 2014* and the *Water Act 2000*.

In accordance with the *Queensland Government Guide to Better Regulation* (the Guidelines), the Office of Best Practice Regulation (OBPR) was consulted in relation to the following amendments:

- Prescribed conference election notice requirements under the *Mineral and Energy Resources (Common Provisions) Regulation 2016*;

- Requirement for resource authority holders or mining lease and mining claim applicants to provide guidance material to affected landholders at prescribed points;
- Prescription of the prescribed ADR institute and the prescribed arbitration institutes under the *Mineral and Energy Resources (Common Provisions) Regulation 2016* and the *Water Regulation 2016*.

In relation to the proposed amendments assessed by OBPR, OBPR considered that the proposed amendments are unlikely to result in significant adverse impacts and therefore no further regulatory impact analysis was required under the Guidelines.

In relation to the other proposed amendments, the department applied a self-assessable exclusion from undertaking further regulatory impact analysis (category a – Regulatory proposals that make consequential amendments; category f – Regulatory proposals that correct technical errors; and category g – Regulatory proposals that are of a machinery nature).