

Coal Mining Safety and Health Amendment Regulation (No. 1) 2020

Explanatory notes for SL 2020 No. 27

made under the

Coal Mining Safety and Health Act 1999

General Outline

Short title

Coal Mining Safety and Health Amendment Regulation (No. 1) 2020

Authorising law

Section 282 of the *Coal Mining Safety and Health Act 1999* (the Act)

Policy objectives and the reasons for them

The objective of the *Coal Mining Safety and Health Amendment Regulation (No. 1) 2020* (the Amendment Regulation) is to extend transitional periods by three months, for amendments mainly applying to new requirements for vehicle access in return airways, or for controlled ventilation, in underground coal mines.

These new requirements have respective transitional periods, which determine when the new requirements apply. They commenced through the *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019*.

The Act establishes a legislative framework with the objectives of protecting the safety and health of persons at coal mines and persons who may be affected by coal mining operations; requiring that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level; and providing a way of monitoring the effectiveness and administration of provisions relating to safety and health under the Act.

The *Coal Mining Safety and Health Regulation 2017* (the Regulation) supports the operation of the Act by prescribing ways of protecting the safety and health of persons at coal mines, and achieving an acceptable level of risk in particular circumstances that expose workers to risks at coal mines. The Regulation specifies where methane monitors must be located and how methane levels in underground coal mines must

be monitored and risk managed to ensure operations are at an acceptable level of risk.

The *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019* which amended the Regulation to clarify and improve methane monitoring requirements in underground coal mines, commenced on 6 January 2020. The amendments included a range of transitional periods for compliance to be achieved with the new requirements, based on the level of risk being addressed by the respective amendments; whether the majority of underground coal mines already comply with the new requirements; and the practical changes required.

Some underground coal mine operators have subsequently queried some of the technical consequences of the amendments primarily about vehicle access in return airways, or about controlled ventilation.

To enable further consultation, the original, respective transitional periods for underground coal mines to start to implement the new requirements for these aspects, need to be extended by three months.

Achievement of policy objectives

The Amendment Regulation achieves the policy objective of providing additional time to consult and analyse the issues, recently raised by some underground coal mine operators. The amendments extend the transitional periods primarily about vehicle access in return airways, or for controlled ventilation, prior to implementation of the changes, at underground coal mines.

Section 398 of the Amendment Regulation extends the transitional periods provided under sections 395, 396 and 397 of the Regulation by three months. It does this by providing that: (1) section 395 applies as if a reference in the provision to three months were a reference to six months; and (2) sections 396 and 397 apply as if a reference in the provisions to six months were a reference to nine months.

Section 395 of the Regulation will then provide that the previous version of section 290, will continue to apply as if the *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019* had not been made, for six months after the commencement on 6 January 2020.

Through section 398 of the Amendment Regulation, the provisions listed in sections 396 and 397 of the Regulation will be deferred for nine months instead of six months, after the commencement on 6 January 2020, before applying.

The amendments deferred for nine months listed in section 396 of the Regulation are:

- (a) section 242(5) and (6);
- (b) section 242(7), to the extent it relates to an alarm mentioned in section 242(6);
- (c) section 243B;

- (d) section 250(1)(c) and (6), to the extent it relates to a methane detector located as required under section 242(5) or 243B;
- (e) section 251, to the extent it relates to a methane detector located as required under section 242(5) or 243B;
- (f) section 344(1)(b)(iii), to the extent it relates to controlled ventilation in a working place in an ERZO.

Under section 397 of the Regulation, previous section 345(b) and (c) of the Regulation will continue to apply as if the section has not been amended, until the end of nine months after the commencement on 6 January 2020.

Consistency with policy objectives of authorising law

The *Coal Mining Safety and Health Amendment Regulation (No.1) 2020* is consistent with policy objectives of the Act, to protect the safety and health of persons at coal mines, and to ensure the risk of injury or illness to any person from coal mining operations is at an acceptable level.

Its sole objective is to extend the transitional period for some additional requirements that commenced on 6 January 2020, through the *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019*, by three months.

Inconsistency with policy objectives of other legislation

The *Coal Mining Safety and Health Amendment Regulation (No.1) 2020* is consistent with the policy objectives in other safety and health legislation applying to underground coal mining.

Benefits and costs of implementation

There are no significant administrative or other costs associated with implementing the *Coal Mining Safety and Health Amendment Regulation (No. 1) 2020*.

By extending the transitional period for some additional requirements that commenced on 6 January 2020, through the *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019*, by three months, the benefits and costs are postponed by three months.

This enables further analysis through consultation with industry about the consequences of some of the amendments mainly about vehicle access in return airways, or controlled ventilation.

The costs of the amendments under the *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019* were originally

identified as minimal, in order for underground coal mine operators to fulfil overarching safety and health obligations that require the effective control of principal hazards.

Under higher level safety and health obligations, underground coal mines should be effectively risk managing vehicle access in return airways, and any controlled ventilation requirements in underground coal mines, regardless of any specific requirements in the Regulations.

Consistency with fundamental legislative principles

The *Coal Mining Safety and Health Amendment Regulation (No. 1) 2020* has been drafted to be consistent with fundamental legislative principles, as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Construction, Forestry, Maritime, Mining and Energy Union, the Queensland Resources Council, operators and site senior executives of underground coal mines were consulted. The amendments reflect their feedback.

The Office of Best Practice Regulation within the Queensland Productivity Commission was consulted in 2019 about whether further regulatory impact analysis was required under the *Queensland Guide to Better Regulation* (guidelines) for the original amendments under the *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019*.

The Office of Best Practice Regulation considered that the original amendments through the *Coal Mining Safety and Health (Methane Monitoring and Ventilation Systems) Amendment Regulation 2019* were unlikely to lead to significant adverse impacts and advised that further regulatory impact analysis under the guidelines was not required.

The amendments in the *Coal Mining Safety and Health Amendment Regulation (No. 1) 2020* are only extending the transitional period for a number of particular original amendments mainly about vehicle access in return airways, or controlled ventilation.

The Department of Natural Resources, Mines and Energy applied a self-assessable exclusion from undertaking further regulatory impact analysis (category (e) – Regulatory proposals that are of a transitional nature).