

Mining Safety and Health Legislation (Respirable Coal Dust and Silica) Amendment Regulation 2020

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy provide this human rights certificate with respect to the Mining Safety and Health Legislation (Respirable Coal Dust and Silica) Amendment Regulation 2020 made under the *Coal Mining Safety and Health Act 1999* and the *Mining and Quarrying Safety and Health Act 1999*.

In my opinion, the Mining Safety and Health Legislation (Respirable Coal Dust and Silica) Amendment Regulation 2020 (Amendment Regulation), as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The *Coal Mining Safety and Health Act 1999* establishes the overall legislative framework for the safety and health of persons at coal mines with the following primary aims to:

- protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations;
- require that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level.

Section 282 of this Act authorises the making of regulations.

The *Mining and Quarrying Safety and Health Act 1999* establishes the overall legislative framework for the safety and health of persons at mines with the following primary aims to:

- protect the safety and health of persons at mines and persons who may be affected by operations; and
- to require that the risk of injury or illness to any person resulting from operations is at an acceptable level.

Section 262 of this Act authorises the making of regulations.

The specific level changes are as follows:

- For coalmine workers, it is proposed to reduce the exposure limit for respirable coal dust from 2.5mg/m³ to 1.5mg/m³, requiring amendment of the Coal Mining Safety and Health Regulation 2017 (section 89(1)(b)(i))
- For all mineworkers, it is proposed to reduce the exposure limit for respirable crystalline silica from 0.1mg/m³ to 0.05mg/m³, requiring amendments to the Coal Mining Safety and Health Regulation (section 89(1)(b)(ii)) and the Mining and Quarrying Safety and Health Regulation 2017 (schedule 5).

The purpose of the Amendment Regulation is to revise the exposure limits in Queensland for respirable coal dust and respirable crystalline silica to reflect the most relevant scientific data for comparable exposure standards internationally and nationally. The exposure limits have been arrived at through a nationally agreed methodology, and both the agreed methodology and the revised exposure limits have been the subject of extensive consultation conducted by Safe Work Australia.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights relevant to the Amendment Regulation are:

- right to life (section 16 of the *Human Rights Act 2019*); and
- right to liberty and security of person (section 29 of the *Human Rights Act 2019*).

The purpose of the Amendment Regulation is to protect workers from adverse health effects as a result of hazardous levels of respirable dust by lowering the workplace exposure limits in the Coal Mining Safety and Health Regulation 2017 and the Mining and Quarrying Safety and Health Regulation 2017. In my opinion, the Amendment Regulation promotes the right to life and the right to security of the person protected by the *Human Rights Act 2019* and does not limit any rights.

The right to life protects the lives of all persons and includes the right not to be arbitrarily deprived of life. It imposes positive obligations on the State to take appropriate steps and adopt positive measures to protect the health and safety of its citizens. The Amendment Regulation updates safety requirements to protect the life, safety and health of those at mines and coal mines, or those who may be affected by mining operations. This will be achieved by updating the Coal Mining Safety and Health Regulation 2017 and the Mining and Quarrying Safety and Health Regulation 2017 in line with the best available scientific data and evidence, and exposure limits determined by Safe Work Australia using a nationally agreed methodology.

The right to security of the person similarly places a positive obligation on the State to take appropriate steps to ensure the physical health and safety of those who are in danger of physical harm. The Amendment Regulation also protects the right to security of the person by enforcing compliance to scientifically determined and verified exposure limits for respirable coal dust and respirable crystalline silica, to manage related hazards and related health and safety risks to those at mines and coal mines to protect the physical safety and health of individuals at those places.

Conclusion

I consider that the Mining Safety and Health Legislation (Respirable Coal Dust and Silica) Amendment Regulation 2020 is compatible with the *Human Rights Act 2019* because it promotes human rights and does not limit human rights.

DR ANTHONY LYNHAM MP
MINISTER FOR NATURAL RESOURCES, MINES AND ENERGY
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